

A CONSTRUCTIONIST PERSPECTIVE ON HUMAN RIGHTS TENSION
BETWEEN CHINA AND THE U.S.

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A thesis submitted to the faculty of
The University of Utah
in partial fulfillment of the requirements for the degree of

Master of Arts

Department of Communication

The University of Utah

December 2013

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The University of Utah Graduate School

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ABSTRACT

Human rights are a controversial topic between U.S. and China. Although both countries embrace the concept of human rights, they have different understandings of what constitutes human rights. These differences derive from a variety of factors, including historical, cultural, and social contexts. The Chinese and U.S. governments have had 17 face-to-face sessions of human rights dialogue, but their human rights disagreements are unlikely to disappear soon. Every year, both countries publish human rights records and criticize each other. Human rights have become a source of ideological conflict and communication schisms in U.S.-China relations.

This thesis applies a constructionist perspective to examine the human rights conflict between China and the U.S. through qualitative discourse analysis of philosophical discussions, newspaper articles, and governmental records. The thesis argues that a constructionist human rights dialogue can increase mutual understanding of human rights differences between U.S. and China.

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ACKNOWLEDGEMENTS

I gratefully acknowledge all who have given me their support and encouragement for my master's studies.

I thank my advisor, Dr. Len Hawes, for providing mentorship for my academic path and inspiring me to work on the controversial but worthwhile topic of human rights. Three years ago, I started to study communication at a graduate level and to work with Dr. Hawes. In the spring of 2011, I wrote a short paper to answer Dr. Hawes' question: How does China think about human rights? Based on that paper, we exchanged ideas frequently. This long process has contributed to the completion of my thesis manuscript. This is my first time using my second language to write such a long paper. I want to thank Drs. Hawes and Holbrook, my department chair, Dr. Kent Ono, and my writing tutor, Keltin Barney, for reading all of my thesis chapters and polishing my writing patiently. Also, I appreciate Drs. Hawes, Bullis, and Holbrook's help for serving on my committee in the summer semester and contributing their wisdom to my thesis.

I am so lucky to have studied in the Communication Department at the University of Utah and to have worked with great professors and graduate colleagues. My department provided high-quality training for my graduate study in communication. I am very grateful to have taken classes from Drs. Len Hawes, Connie Bullis, Heather Canary,

Ann Darling, Marouf Hasian, Helene Shugart, and Jakob Jensen. I have been inspired by their insightful ideas.

My deepest appreciation is for my parents. They have been my original teachers since I was born. I thank them for offering unconditional emotional support for my study in the U.S. and encouraging me to follow my dream in life, especially my father, for encouraging me to become involved in the communication discipline in 2006.

CHAPTER 1

INTRODUCTION

Human rights are a controversial topic between the U.S. and China due to different understandings of what constitutes human rights. These differences derive from a variety of factors, including historical, cultural, and social contexts. Many Americans prefer to link human rights violations to China. For the U.S., China's human rights record "has been something of a grey area" (Weatherley, 1999, p. 101). For China, U.S. human rights focus too much on universality and emphasize individual rights but dismiss their social characteristics. Because social relations exist between individuals, groups, and societies, social characteristics play an important role in discussing rights (Li, 1996). The U.S. and China have different concepts of human rights involving morality (i.e., good and evil) and ethics (i.e., right and wrong). The roots of these human rights conflicts are not only ethical and moral, but also political, ideological, social, and cultural.

1.1 Background of Study

As the largest developed country and the largest developing country, the U.S. and China contribute to the construction of international order and disorder in the world. The U.S.-China relationship is often a barometer of East-West relations. Despite 34 years of

mutual rapprochement, several conflicts have persisted between them, including conflicts about human rights. In U.S.-China relations, human rights are an ideological conflict and pose communication dilemmas, which are represented both in governmental documents and media coverage (Yin, 2007). Different understandings of human rights existed before the U.S.-China rapprochement in 1979. At that time, these two countries did not know much about each other because of the absence of a diplomatic relationship.

The Tiananmen Square Protest of 1989 is widely seen as a watershed in the history of the conflicted human rights relationship between China and the U.S. (Lum & Fischer, 2009). Some scholars divide this history into two periods: before 1989 and after 1989 (Svensson, 2001). This incident shaped the viewpoints of the U.S. toward China in the following two decades and made Chinese human rights an important issue in China's relations with the U.S. The photographs of the protest have been portrayed as anti-democratic and have been widely spread around the world. These images have intensified the antagonism of the U.S. toward China.

On the one hand, because of the outcomes of the Tiananmen Square Protest and the existing differences of social contexts, cultural traditions, and political systems, U.S. media emphasize negative aspects of Chinese human rights and describe China as having a repressive communist government (Yin, 2007). The Chinese government is considered to be a repressive authoritarian regime, especially when Chinese dissidents like Chen Guangcheng and Ai Weiwei are restricted from freedom of expression in China. The basis of this understanding is found in governmental attitudes and media discourse. On the other hand, the Chinese government responded passively to U.S. criticism when China began to integrate into the international human rights community. Chinese culture

suggests “Domestic shame should not be made public,” and “Do not lose face.”

Influenced by these beliefs, the Chinese government instructs Chinese media to keep silent when it comes to human rights violations. As the Spiral of Silence Theory indicates, the tendency of the one to speak and the other to be silent leads to a spiraling process that increasingly establishes one opinion as the dominant one (Noelle-Neumann, 1977). In a similar way, when U.S. media take an active role in reporting Chinese human rights violations and the Chinese media responds passively, Chinese human rights problems become increasingly scrutinized in U.S. society.

Although the modern concept of human rights derives from the West, it has become internationalized and commonly embraced by many countries around the world. In 1978, the Chinese government began to implement the Open Door Policy (opening up to the outside world) and accelerated economic reforms. These procedures have contributed to the Chinese government’s understanding of internationalized human rights.

In the international arena, the U.S. government plays a leading role in the criticism of Chinese human rights practices. The U.S. has a relatively long tradition of promoting universal human rights; therefore, the U.S. government often tends to exert its international influence through human rights critiques. However, some scholars do not think that the U.S. government is an advocate of human rights. They believe that U.S. criticism of Chinese human rights is often used as a means of irritating the Chinese government and is an attempt to “contain a resurgent China in an effort to prevent it from assuming its rightful place in the international community” (Weatherley, p. 1).

The Chinese government committed itself to the international human rights community and signed international treaties on human rights, such as the International

Covenant on Economic, Social, and Cultural Rights in 1997 and the International Covenant on Civil and Political Rights in 1998 (Lee, 2007). However, the Chinese government's understanding of human rights practice differs from that of the U.S. government. The Chinese government considers human rights issues to be internal affairs. When the U.S. government criticizes Chinese human rights practice, the Chinese government responds quickly to the criticism, partly because Beijing regards it as a serious violation of China's national sovereignty. The two governments have had 17 face-to-face sessions of human rights dialogue from 1990 to 2012 (Posner, 2012), yet they did not reveal the specific outcomes of these sessions.

The U.S. government publicly prioritizes human rights over sovereignty, but the Chinese government perceives Chinese human rights issues as internal affairs. In the eyes of the Chinese government, "a country's human rights situation cannot be judged in total disregard of its historical and national conditions, nor can it be evaluated according to the preconceived model or standard of another country or region" (Information Office of the State Council, 2001, p. 357). The positions of both sides and the history of their human rights conflicts indicate that the tension around human rights between the Chinese and U.S. governments seems unlikely to disappear any time soon.

Since 1976, the U.S. State Department has been submitting annual reports on human rights practices across different parts of the world (Shi, 2011). This report criticizes human rights conditions of many countries, including China. As a defense, since 1999, the Chinese State Council Information Office responds to the criticism from the U.S. and criticizes the U.S. human rights record in its own annual report.

Table 1.1 illustrates the contiguous pattern of publication dates of both governments'

human rights reports, which exposes the recent history of tension between China and the U.S. During the past decade, when the U.S. government published a report criticizing Chinese human rights practices, the Chinese government responded quickly and criticized the U.S. human rights record. Most claims and counter claims in these two critical reports are supported by media artifacts, especially newspaper articles.

A close reading of the two governments' annual human rights reports reveals that the U.S. and China have different human rights discourses despite several similarities. The U.S. government's report consists of seven sections: 1) respect for the integrity of the person; 2) respect for civil liberties; 3) respect for political rights; 4) official corruption and government transparency; 5) governmental attitude regarding international and nongovernmental investigation of alleged violations of human rights; 6) discrimination, societal abuse, and trafficking in persons; and 7) worker rights. The Chinese government's report includes six sections: 1) life, property, and people's safety (violent crime and gun abuse); 2) civil and political rights (citizen privacy, police violence and torture, misjudged cases, huge expenses for elections, and Internet freedom); 3) economic, social, and cultural rights (high unemployment rate, poverty, famine, homeless population, population without medical insurance); 4) race discrimination; 5) women's and children's rights; 6) violation for other countries' human rights (injuries and deaths of civilians and scandals of prisoner torture in the wars in Afghanistan and Iraq).

The above comparison demonstrates the contrast of human rights categories between these two countries. The U.S. report specifically divides civil rights and political rights into different sections and exemplifies civil and political rights issues mainly through media coverage. Different from the U.S. report, the Chinese report combines civil rights

and political rights in one section. Moreover, the Chinese report mentions economic, social, and cultural rights, which do not appear in the U.S. report. These two primary differences reflect different sociocultural conceptions of human rights in China and the U.S. As Vološinov maintains, “everything ideological possesses semiotic value” (p. 10). The controversy over human rights reveals the considerable gap between collectivism and individualism.

China’s inclusion of social and cultural rights signifies a collectivist conception of human rights discourse. In 1993, Liu Huaqiu, the head of the Chinese delegation, delivered a speech to the United Nations World Conference regarding human rights. He emphasized that “the concept of human rights is a product of historical development. It is closely associated with specific social, political, and economic conditions and the specific history, culture, and values of a particular country” (Liu, 1995, p. 214). Although his statement does not evaluate U.S. human rights, it implies that there is a distinction between China and the U.S. regarding the understanding of human rights: China attaches importance to collectivism with respect to human rights, whereas the U.S. focuses largely on individualism.

A Chinese sociologist, Fei Xiaotong (1992), analogizes Chinese society as a set of concentric circles (interdependent relationships) and Western society as a bundle of firewood (independent relationships). As for Chinese society, Fei also says, when a person throws a pebble into water, the pebble ripples the surface. The ripples look like a series of concentric circles.

As Fei describes China and the West through concentric circles and firewood, Deleuze and Guattari (1987) mention China through a quotation from Henry Miller,

“China is the weed in the human cabbage patch....the weed produces no lilies, no battleships, no Sermons on the Mount ... [E]ventually the weed gets the upper hand. Eventually things fall back into a state of China” (pp. 18–19). When identifying the difference between China (weed) and the West (tree), Deleuze and Guattari contrast China’s nonlinear structure and the West’s linear structure. As the co-existence of weed and tree helps preserve ecological diversity and balance, the differences in Chinese and U.S. conceptions about human rights contribute to the development of human civilization. For both countries, the majoritarian value (collectivism in China and individualism in the U.S.) and the minoritarian value (collectivism in the U.S. and individualism in China) play important roles in formulating multiplicity in understanding human rights. Without the support of one side, the other side may not advance and “a force would not survive if it did not first of all borrow the feature of the forces with which it struggles” (Deleuze & Guattari, p. 5). Thus the reality of human rights relies both on “procedural inclusiveness [and] transnational collaboration” (Orentlicher, 2001, p. 143).

Fei, Deleuze, and Guattari use similar linear images to describe the West and different nonlinear images for China. Concentric circles (described by Fei) and weeds (described by Deleuze and Guattari) have different characteristics, but they share common features: obscure borders and ubiquitous connections. Both weeds and concentric circles show how the closeness of social relations makes it difficult to distinguish individual rights from social obligations in traditional Chinese society.

1.2 Purpose and Significance of the Study

As Vološinov (1973) claims, “a sign is a phenomenon of the external world. Both the sign itself and all the effects it produces (all those actions, reactions, and new signs it elicits in the surrounding social milieu) occur in outer experience” (p. 11). The dramatically different emphases of the Chinese and U.S. governments regarding human rights demonstrate important differences between Chinese and U.S. society.

This study is driven by my observations of the reciprocal critiques of the two governments. My conversations with friends and colleagues in the U.S. inspired me to explore the possibility of clarifying and elucidating these differences. When responding to the same question asked by my friends, “How does China think about human rights?” I realized that the distance between China and the U.S. is not only the Pacific Ocean, but also differences in media discourses and cultural values. More effective communication about differences between people can bring them closer together and permit them to interact (Martin & Nakayama, 2013, p. 155). To improve communication between China and the U.S., it is necessary to understand differences and similarities regarding how China and the U.S. construct their respective human rights discourses.

This study aims to explore the following: 1) how different social, cultural, and historical traditions construct human rights discourses in the U.S. and China; 2) the possibility of maintaining human rights dialogue between these two countries; and 3) the types of dialogue that can help reduce human rights conflicts between these two countries.

1.3 A Constructionism Perspective

Social constructionists view discourse not simply as a representation of the world, but as its very construction. This study is informed by constructionist theory, which emphasizes that social reality is constructed socially, culturally, and historically. Human language, social interaction, and institutions of authority contribute to the process of constructing social realities. In this research, the philosophical foundation of human rights, governmental documents, and news reports on human rights are read and analyzed through discourse analysis as socially constructed artifacts.

1.4 A Discourse Analysis Methodology

This thesis uses discourse analysis as a tool, which “aims to identify the knowledge of discourses, to explore the respective concrete context of knowledge/power and to subject it to critique [that] covers the strategies with which the spectrum of what can be said is extended” (Jager, 2001, pp. 33–35). Discourse analysis is applied to address patterns of ideas and news coverage, speeches, slogans, posters, and pamphlets that are commonly used as discourse data sources (Johnson, 2002). This thesis adopts a cross-cultural perspective to compare human rights discourses.

1.5 Overview of the Study

Chapter 1 introduces the background, purpose, and significance of this research. Chapter 2 reviews literature on 1) a human rights theoretical framework, 2) the comparison of human rights issues between China and the West, 3) social constructionism, and 4) discourse analysis. The methodology section establishes the

importance of discourse analysis of human rights, identifies the artifactual data, and describes the steps of data collecting. Chapter 3 discusses human rights origins in China and the U.S. It includes 1) the relevance of natural law, natural rights, and human rights; 2) human rights ideas represented in the Declaration of Independence; 3) the origin of human rights in China's philosophy of Taoism; and 4) influences of Confucianism and language. Chapter 4 compares the social contexts and challenges of China and the U.S. Chapter 5 explores the possibility of having a meaningful human rights dialogue between China and the U.S. Chapter 6 summarizes the main points of this study, discusses the limitations of this study, and suggests implications for the future research.

Table 1.1 Publication Dates of Human Rights Reports by the U.S. and China

Year	Publication Date of Country Reports on Human Rights by the U.S.	Publication Date of U.S. Human Rights Record by China
2001	March 4 2002	March 11 2002
2002	March 31 2003	April 3 2003
2003	February 25 2004	March 1 2004
2004	February 28 2005	March 3 2005
2005	March 8 2006	March 9 2006
2006	March 6 2007	March 8 2007
2007	March 11 2008	March 13 2008
2008	February 25 2009	February 26 2009
2009	March 11 2010	March 12 2010
2010	April 8 2011	April 10 2011
2011	May 24 2012	May 25 2012
2012	April 19 2013	April 21 2013

CHAPTER 2

LITERATURE REVIEW AND METHODOLOGY

2.1 Literature Review

2.1.1 The Concept of Human Rights

As Chapter 1 discusses, human rights are a disputed topic between the West and China, because different social contexts influence different understandings of human rights. Even in the West, scholars have different definitions of rights (Donnelly, 1989; Feinberg, 1966; Spivak, 2004). Spivak (2004) mentions in his paper that the Oxford English Dictionary characterizes a right as a “justifiable claim, on legal or moral grounds, to have or obtain something, or to act in a certain way” (p. 523). Similarly, Joel Feinberg (1966) insists that to have a right means to have a claim to something and against someone. However, Donnelly (1989) maintains that having rights refers to being entitled to have and enjoy rights (p. 9). Based on the relationship between entitlement and rights, Sepúlveda, Van Banning, Gudmundsdóttir, Chamoun, and Van Genugten (2004) understand human rights as “inalienable fundamental rights of which a person is inherently entitled simply because she or he is a human being” (p. 3). From the above texts, it is noted that the definition of entitlement illustrates the natural state of rights, while the definition of claim focuses on people’s active role when it comes to human

rights. The difference between claim and entitlement has been at issue in the human rights debate for a long time.

2.1.2 Universalism and Relativism: Human Rights Debates

An important contribution to the development of human rights thinking is *Universal Human Rights in Theory and Practice* (1989) written by Jack Donnelly (Angle, 2002; Baik, 2012). Donnelly defends an account of the universality of human rights. He provides competing claims of universality and relativity of human rights in order to demonstrate that “the historical contingency and particularity of human rights is completely compatible with a conception of human rights as universal moral rights” (p. 1). In other words, he maintains that the historical particularity of universal human rights does not require people to accept the cultural relativity of human rights. Some scholars think that individualism is not applicable for collectivist societies, but Donnelly argues that individualism is compatible with recognizing individuals as social group members. Although the modern concept of human rights derives from the West, international human rights standards can be applied to non-Western societies. Therefore, it is necessary to pursue the establishment and implementation of the universality of human rights norms.

A Chinese scholar, Liu (1996), supports the following definition: “human rights are rights which an individual has and is entitled to have based on his or her natural and social properties” (p. 17). He attempts to balance the roles of the universality and particularity of human rights. When it comes to all human beings, universality is emphasized in the concept of human rights. When it comes to the peoples of a country, both universality and particularity are emphasized. When it comes to specific persons,

particularity is emphasized. A country's history, culture, geography, social system, and development determine the particularity of human rights; the shared needs or interests of human beings determine the universality of human rights.

Similar to Liu, who claims that the universality and particularity of human rights are important, Chinese scholar Li Buyun (1996) argues for the individualism and collectivism of human rights. Li says that individual human rights involve the rights of the human body and human dignity (the right to life, health, personal dignity, etc.), political rights and freedom (the rights to vote and freedom of expression, etc.), and economic, cultural, and social rights (the rights to employment, education, and social welfare). Li also talks about different types of collective rights. He proposes that collective human rights encompass domestic and international dimensions. Domestic collective human rights refer primarily to the rights of ethnic minorities, children, women, the elderly, the disabled, detainees, foreign nationals, and refugees. International collective human rights refer primarily to the right of national self-determination, the right to development, the right to peace and security, and the right to environment (e.g., access to unspoiled natural resources). When it comes to the relationship between individual and collective human rights, Li maintains that individual rights are the basis for collective rights, because a community is constituted of individuals and obtaining collective rights depends largely on the cooperative efforts of individuals within their community. Also, Li argues that collective rights are the guarantee for individual rights, because individuals can benefit from the rights that their community enjoys. In other words, Li insists on the interdependent importance of individual and collective rights.

As one of the most influential leaders in contemporary China, Mao had his own

thinking about human rights, although he rarely invoked the term. In 1957, Mao published an important article in *People's Daily* (the mouthpiece of the Chinese Communist Party), "On the Correct Handling of Contradictions Among the People." He believed that civil rights means respecting freedom and democracy, but leaders should instruct such freedom and democracy. Anarchy does not meet most people's interests and expectations. Influenced by Marxism, Mao proposed that democracy and freedom belong to superstructure, which serves the economic base. In the article, "On Coalition Government," Mao (2005) argued that freedom is not charity and people should claim it. It is necessary to abandon the policies if they limit people's freedom of expression, press, meeting, and belief. According to these articles, Mao concentrated on democracy and freedom, but he did not think of them as natural rights. In other words, he considered human rights to be achieved through people's efforts, as opposed to being natural rights.

The debate on the universalism and relativism of human rights is one of the most contested issues in the U.S.-China debate. Following this debate, this thesis talks about how universalism and relativism influence the construction of human rights issues in China and the U.S. Different from literature focusing on universalism or relativism, this thesis follows a constructionist perspective to argue that constructionism can increase mutual understanding between China and the U.S.

2.1.3 Discussion on Human Rights and Chinese Traditions

Chinese and U.S. scholars understand human rights from different philosophical perspectives (Angle, 2002; De Bary, 1998; Li, 2001; Liu, 2001; Svesson 2002; Weatherley, 1999; Xia, 2001). China's rights discourse traces its roots back to

Confucianism. The foci of their contested arguments are whether human rights are universal and whether Confucian ways of thinking are compatible with the concept of human rights in the West.

De Bary (1998) offers a Confucian communitarian perspective and believes that Confucian tradition and Western thinking about human rights are compatible. He maintains that the limitation of some discussions of China, Confucianism, and human rights is that they prefer to compare abstract values instead of considering their mode of application during the process of development. In his view, through dialogue and even open debate, Confucianism and its influence on human rights could be better clarified.

Angle (2002) asserts that human rights discourses are changing and contested both in China and the West. He assesses two claims: 1) countries have different definitions of human rights, and 2) people should not require others to adhere to concepts of human rights different from their own. It is necessary to pursue an accommodation of differences with one another in a spirit of toleration, if any accord is to be achieved. Angle advocates dialogue and mutual openness for understanding China and Western rights discourses. Inspired by but different from Bhikhu Parekh (1999), who is idealistic about cross-cultural dialogue, Angle contends that the realization of the complicated features of cultures and traditions must be at the heart of a successful cross-cultural dialogue. These difficulties can facilitate fruitful dialogue.

Weatherley (1999) explores the emergence and development of the idea of rights in China and describes the external and internal, and the ancient and contemporary sources of influence that construct this idea. He claims that Confucian ways of thinking have shaped the ways in which the idea of rights has been understood in China. He notes that

Confucianism is incompatible with the idea of human rights, partly because Confucianism focuses on moral hierarchy in which some more powerful groups like fathers, supervisors, and officials are seen as morally superior, while the idea of human rights emphasizes the universal equality of all human beings. As an external source of influence, Marxism was imported into China. Mao and other Chinese communist leaders integrated characteristics of Confucianism into their unique brand of Chinese Marxism. Weatherley incorporates Confucianism and Marxism in his study of Chinese human rights and emphasizes that these two philosophies have a combined influence on the contemporary “Chinese orthodoxy of rights” (p. 11).

Angle and Svensson (2001) perceive China as a latecomer to human rights discourse. When comparing Western and Chinese thought, they assert that many Western concepts of human rights are based on the assumption that the human world is made up of individuals whose duties or individual personhood can be evaluated independently, whereas Confucianism focuses on mutual responsibilities and does not protect self-interests adroitly.

Svensson (2002) provides an overview of the development of the concept of human rights and current controversies in the West. Different from some scholars focusing on the Confucian tradition, she does not locate her analysis in a common ground between Confucianism and the concept of human rights. In fact, she disagrees with the search for equivalents between Confucianism and the concept of human rights. Consciousness and acceptance of human rights in contemporary China do not rely on the identification of Confucian equivalents. She argues that the concept of human rights is constructed from a new lexicon and offers a different perspective from Confucianism. Confucian traditions,

such as social hierarchical order and the submission of women, are contradictory to human rights. Svensson provides a more complex picture than do some scholars who use Confucianism to explain the focus on collectivism over individualism and duties over rights; there are many more complicated differences between China and the West.

The Chinese scholar Xia (2001) introduces two one-sided but instructive explanations for why the concept of human rights does not derive from China. One is that Chinese culture encourages people to cultivate a spirit of collectivism and it is impossible to advocate individual rights. China feeds almost one quarter of the global population with only 7% of arable land in the world (Liu & Zhang, 2000, p. 546). In traditional Chinese society, most people lived in rural areas with small-scale farming production as a primary source of income. People who came from the same community worked on a joint enterprise and shared limited farming resources. Xia understands that the concept of human rights includes three basic tenets: humanism, the rule of law, and great harmony. Chinese culture lacks the spirit of the rule of law but has humanism and harmony. Harmony has three levels of meaning: harmony between humans and nature, harmony between people, and harmony between the physical and mental aspects of human beings. Xia says that Chinese people practice humanism and harmony through the duties of individuals and the rule of virtue rather than the rights of individuals and the rule of law. The prime difference between Chinese and Western cultural traditions lies in means. There is no vital conflict between human rights and Chinese traditions. Unlike some scholars who attribute the absence of human rights discourse in Chinese social traditional society to reliance on the concept of harmony, Xia claims that the concept of harmony is compatible with human rights; in fact, the two can promote one another.

Encouraged by these insightful studies, this thesis assumes a comparative perspective and explores Chinese traditions and human rights thinking. In contrast to previous literature, this thesis discusses some values in Taoism that have been dismissed by scholars concerning human rights.

2.1.4 Theoretical Perspective

Social constructionists maintain that “humans derive knowledge of the world from larger social discourses, which can vary across time and place, and which often represent and reinforce dominant belief systems” (Allen, 2005, p. 35). Constructionist scholars think that social and cultural factors create objects and affect people’s understanding of the world (Allen, 2005; Mallon, 2008). Berger and Luckman (1967) introduce the concept of social constructionism and define it as a dialectic relation between widely accepted knowledge and individual existence. They argue that knowledge and people’s conception of what reality is becomes embedded in the institutional fabric of society. Humans construct knowledge through their social practices.

Pearce (1995) separates constructivism from social constructionism. In his opinion, constructivists see communication as a cognitive process of knowing the world and social constructionists understand communication as a social process of creating the world. Constructivists focus on perception while social constructionists focus on action. Constructivists may be categorized by “their interest in the stories we make up” and social constructionists may be categorized by “their interest in the stories we make real in our actions” (p. 100).

Burr (2003) emphasizes that social constructionism encourages people to be critical

of their assumed knowledge. The ways in which people understand the world are historically and culturally specific. People construct their knowledge of the world in their daily interaction. Through social action, their shared ways of understanding the world take shape. In order to make a case for his view, Burr talks about how people define illness, which is a social matter involving people's perceptions of illness within their cultural contexts of norms, values, and the economic structure of their society. When people say that someone is ill, they are evaluating that person's physical condition. Their judgments depend largely on their cultural prescriptions, assumptions, and values surrounding their ability to adequately perform their usual activities (p. 37). Whether a human body is functional or not rests on social criteria. For example, people who have lost the use of their legs and have to use a wheelchair may feel disabled, because they need help when getting into buildings and using public facilities. However, if a society can make appropriate adjustments, particularly to the abilities of wheelchair users, they may not feel restricted in how they live. After using examples of illness, Burr argues that language is important for the processes of social construction, because language is an important precondition for thought. As a form of social action, language provides concepts that offer a framework of meaning for them.

Gergen (1985) assumes that what people take to be experience of the world does not dictate the terms by which the world is understood. The terms in which the world is understood are social products of people's interaction occurring in daily life.

Later in his book, Gergen (2009) provides five primary assumptions that guide social constructionism. First, the ways in which we know the world are not required by what exists in the world. People can use their own languages to construct the world.

Furthermore, the ways in which we describe the world are the results of relationships. People understand the world through their own experience of the world emerging from relationships. Additionally, constructions gain their importance based on their social utility. When people develop their patterns of social relationships, those patterns may be equipped with abstract parameters. People tend to follow some conventions to understand what is workable and what is not. After talking about social utility, Gergen proposes that “as we describe and explain, so do we fashion our future” (p. 11). Constructionism not only maintains traditions, but also develops new ways of explaining the world. In the end, he assumes that challenging assumed knowledge is important to frame new possibilities of reality and conceive of a more viable future.

Based on these primary assumptions of social constructionism, Gergen identifies three major sources of constructing the real and the good. The first source is language structure, which is the central vehicle through which we can construct social realities. The second source is practices of daily interaction. People’s constructions are related to their living circumstances. Gergen takes his interaction with his daughter as an example. They sustain a stable world of facts on daily life like dinner, vacations, and clothes. The third source is institutions of authority. Institutions such as courts of law and religions play important roles in determining the constructions by which people live. Gergen envisions these three factors as sources of social construction.

Inspired by Gergen’s work, Allen (2005) stipulates four primary assumptions of social constructionism. The first assumption is a critical stance towards taken-for-granted knowledge of understanding the world. The second assumption is that all knowledge is historically and culturally specific. The third assumption is that social processes sustain

knowledge. Language plays an important role in producing and reproducing knowledge, understanding the world, and allowing people to share meanings. The fourth assumption is that knowledge and social action are interconnected. She contends that social constructionists use different approaches, such as studying processes of social construction, focusing on products of social construction, and connecting processes and products.

From the literature on social constructionism, this thesis integrates assumptions from Gergen, Burr, and Allen and discusses some aspects of human rights issues, including the following:

- 1) The understanding of human rights is not taken-for-granted. The historical and cultural specificity influence the construction of human rights in philosophy, media, and government record.
- 2) Human rights conflict and dialogue are transformative. A constructionist dialogue may help construct and reconstruct human rights issues and build more viable communication between China and the U.S.

2.1.5 Discourse Analysis

Discourse analysis refers to actual practices of talking and writing (Philips & Hardy, 2002). A discourse is “a set of meanings, metaphors, representations, images, stories, statements and so on that in some way together produce a particular version of events” (Burr, 2003, p. 64). Gee (2001) understands discourse as “socially accepted associations among ways of using language, of thinking, valuing, acting, and interacting, in the “right” places and at the “right” times with the “right” objects” (p. 17). Lupton (1994) explains

discourse as “a group of ideas or patterned way of thinking which can be identified in textual and verbal communications, and can be located in wider historical and social structures” (p. 308).

Discourse is analyzed when language is constructed according to different contexts. As a method for analyzing these contexts, discourse analysis is widely used to explore different social domains. Through what is said, written, or represented in other ways, different discourses construct realities of different worlds. Geotgakopoulou and Goutsos (1997) distinguish discourse from text. They maintain that text is the means of discourse and describe discourse as “a more embracing term that calls attention to the situated uses of text” (p. 4). In other words, discourse analysis not only focuses on texts, but also contexts.

Gee (2001) asserts that discourses include “coordinating language with ways of acting, interacting, valuing, believing, feeling, and with bodies, clothes, nonlinguistic symbols, objects, tools, technologies, times, and places” (p. 25). People construct and reconstruct different aspects of realities through written and spoken language, including the meaning and value of aspects of the world, social activities, identities, and relationships, politics, connections, and semiotics. Also, he maintains that tools of inquiry (the ways of looking at the world of talk and interaction) are relevant to how people construct social identities and activities and realize the social identities and activities that are constructed around them. The primary tools of inquiry, “situated meanings” and “cultural models,” involve changing ways of understanding how people give language particular meanings in specific situations. According to Gee, studying the ways in which situations create and recreate institutions is the work of discourse analysis.

Jørgensen and Philips (2002) consider discourse analysis as one of the widely used approaches within social constructionism. They rely on the following ideas by Burr:

- A critical approach to taken-for-granted knowledge
Our knowledge of the world should not be treated as objective truth. Reality is only accessible to us through categories, so our knowledge and representations of the world are not reflections of the reality ‘out there’, but rather are products of our ways of categorizing the world, or, in discursive analytical terms, products of discourse (Burr 1995: 3; Gergen 1985: 266–7). (p. 5)
- Historical and cultural specificity (Burr 1995: 3)
We are fundamentally historical and cultural beings and our views of and knowledge about the world are the ‘products of historically situated interchanges among people’ (Gergen 1985: 267). Consequently, the ways in which we understand and represent the world are historically and culturally specific and contingent: our worldviews and our identities could have been different, and they can change over time. (p. 5)
- Link between knowledge and social processes
Our ways of understanding the world are created and maintained by social processes (Burr 1995: 4; Gergen 1985: 268). Knowledge is created through social interaction in which we construct common truths and disagree about what is true and false. (p. 5)
- Link between knowledge and social action
Within a particular worldview, some forms of action become natural, others unthinkable. Different social understandings of the world lead to different social actions, and therefore the social construction of knowledge and truth has social consequences (Burr 1995: 5, Gergen 1985: 268–269). (p. 6)

The first premise demonstrates that people’s understanding of the world is not a representation of reality, but an outcome of discourses that construct and reconstruct the world. The second premise shows that discourse is a type of social action that participates in shaping the world. For example, different discourses like official documents, news articles, and philosophical works contribute to the construction of Chinese and U.S. understanding about human rights. The third premise illustrates that through social processes such as reporting China’s human rights violations, people’s understanding of knowledge is created. The fourth premise is that different understandings of knowledge lead to different social actions about that knowledge.

In order to support these premises, Jørgensen and Phillips introduce three approaches to social constructionist discourse analysis: Ernesto Laclau and Chantal Mouffe's discourse theory, discursive psychology, and critical discourse analysis. These approaches share the same premise that people's ways of talking and writing are changing forms of social practice that do not impartially represent the world, identities, and social relations. Instead, they play an active role in shaping and reshaping them. Laclau and Mouffe construct their theory based on Marxism and structuralism and combine these traditions into "a single poststructuralist theory in which the whole social field is understood as a web of processes in which meaning is created" (p. 25). Unlike Laclau and Mouffe's discourse theory, discursive psychology focuses on the specific examples of social interaction. Critical discourse analysis offers theories and methods for the empirical study of the connection between discourse and social and cultural developments in different social domains. In sum, these three approaches are all based on social constructionism.

Although many scholars compare Chinese traditions and Western human rights thinking, few of them use a social constructionist framework to discuss human rights issues among all the literature my thesis reviewed. From the perspective of social constructionism, this thesis describes how Chinese and U.S. societies construct human rights. Inspired by constructionism research, this thesis addresses language and institutions of authority that influence the construction of human rights.

2.2 Methodology

Through discourse analysis, this thesis studies philosophical discourses, newspaper articles, and official documents published in China and the U.S. This thesis analyzes how

China and the U.S. construct human rights in order to better understand human rights conflicts between them and to explore the possibility of reducing these conflicts and facilitating human rights dialogue.

2.2.1 Data Source

The thesis analyzes how structures of language, the power of government, and the influence of social conventions help construct human rights in both countries. This thesis answers the research question of how the idea of human rights is constructed within Chinese and U.S. contexts by using discourse analysis. Early Chinese and U.S. philosophical discussions, news articles, and some governmental documents are analyzed in depth.

Human rights discourse takes place not only in the political arena but also in social and cultural domains (Yin, 2007). It is often associated with philosophy, partly because “human rights are a set of moral principles and their justification lies in the province of moral philosophy” (Shestack, 1998, p. 202). This thesis explores the similarities and differences between early Chinese and U.S. philosophical discussions to understand the origins of human rights in both countries.

Official documents are “contextually relevant and grounded in the contexts they represent” (Lincoln & Guba, 1985, p. 277). They are “a site of claims to power, legitimacy, and reality” and can explicate the ways in which documents help coordinate explanations and actions (Lindlof & Taylor, 2011, p. 232). In other words, documents are often used as a trustworthy source for organizational decisions and behaviors because of their value. Because government is an important source of the protection of human rights,

it is important to study governmental documents to understand the positions of Chinese and U.S. governments in terms of human rights. This thesis focuses mainly on annual human rights reports of the Chinese and U.S. governments.

News is an important type of mass media discourse. It can present particular meanings as real or natural and function as an intersection where cultural and historical situations are engaged and where meanings are constructed, negotiated, and contested (Hay, 1989; Yin, 2007). According to Hay, news discourse not only naturalizes but also robs the object of its meaning in a more accepted context. Some scholars locate ideological power in the process of producing and reproducing news. For example, Parenti (1993) reveals that through rewards, punishments, and some more overt pressure, news institutions induce journalists into dominant practice. Herman (1999) insists that the U.S. media depends largely on official information for international news events. In other words, news discourse plays an important role in understanding dominant values in a country.

The primary news sources for this research include U.S. newspapers (*The New York Times*, *the Washington Post*, and *the Los Angeles Times*), and Chinese media (*Xinhua News Agency*, and *People's Daily*). All of these are mass-circulation newspapers and seminal media in the U.S. and China. *Xinhua News Agency* is the only national and official news agency in China. *People's Daily* is the organ of the Chinese Communist Party. As well as *Xinhua News Agency*, *People's Daily* functions as the official mouthpiece for the Chinese government. Both of them set the tone for other Chinese media.

The data from these sources are used to explore how Chinese and U.S. mainstream media construct the human rights issue--the one-child policy--because it is one of the

most frequently discussed topics associated with core human rights issues like the right to live, the right to have freedom, and women's rights.

2.2.2 Data Collection

I chose philosophical works from Thomas Jefferson, Confucius, and Lao Zi to explore the similarities and differences between U.S. and Chinese human rights origins. Meanwhile, I collected 11 U.S. human rights records by the Chinese government and 11 Chinese human rights records by the U.S. government between 2001 and 2012. These human rights records are accessible through the official websites of U.S. State Department and China's Information Office of the State Council. They reflect Chinese and U.S. governments' positions in this research.

In addition to early human rights philosophy and official human rights records, I collected news articles related to the one-child policy (one of the most controversial topics in U.S.-China human rights debate) from U.S. and Chinese national newspapers. I divided my news articles search into two categories, U.S. news articles about the one-child policy and Chinese news articles about the one-child policy, in order to understand different positions from different media. The time period 2008-2012 was selected for my literature search to examine relatively recent articles. This study eliminated articles that only had abstracts or indexes from the search results; they did not cover the full texts of news articles. I conducted an examination of U.S. news articles by searching a news database ProQuest Newsstand, which contains the full text of many U.S. and international news sources. The number of search results was 38. Then I used a similar method to search Chinese articles about the application of family planning policy on the

websites of *People's Daily* and *Xinhua News Agency*. At the end of my examination, 16 news articles met all of the criteria for my search.

2.2.3 Data Analysis

It is difficult to analyze discourse without considering contexts. When attempting to understand a discourse, people relate this discourse to a situated context in which it is located. This method can be used to explore how conceptualizations of human rights are constructed and how different contexts influence the construction of human rights. This study compares how U.S. and Chinese philosophical discourses discuss human rights to understand the historical factors that influence the understanding of human rights. Meanwhile, this study explores how the Chinese and U.S. governments responded to each other's human rights issues during the past decade, including what subtopics official human rights records reveal and what perspectives they employ. This comparison helps examine the current communication discord between the Chinese and U.S. governments. Additionally, this research compares how U.S. and Chinese media report on the one-child policy. Through the analysis of texts themes, perspectives, key words, and stances, this paper examines how cultural specificity affects the construction of human rights in different contexts. The data analysis focused on what incidents they report, what words they use to illustrate their positions, and what perspectives and genres they have, in order to understand why China and U.S. define human rights so differently and explore how they can mitigate their human rights conflicts.

CHAPTER 3

THE CONSTRUCTION OF HUMAN RIGHTS IN CHINESE AND U.S. PHILOSOPHICAL DISCOURSE

How people understand the meaning of human rights will influence their understanding of which specific human rights should be prioritized and which should be considered less essential. As Chapter 1 discusses, the human rights conflicts between the Chinese and the U.S. governments represent their contrasting understandings of human rights. When exploring the origin and development of human rights, scholars tend to focus their attention on philosophical foundations. The early conceptualization of human rights is associated with the ideas of natural law and natural rights.

3.1 Natural Law, Natural Rights, and Human Rights

A focus on the relations between natural law, natural rights, and human rights has been prevalent throughout U.S. scholarship. Some scholars believe that in the West, natural law influences the emergence of natural rights and human rights, and that natural law is one source of human rights (Donald, n.d.; Hamburger, 1993; Porter, 1999; Shestack, 1998). According to the *Encyclopedia Britannica*, natural law is “a system of rights or justice held to be common to all humans and derived from nature rather than

from the rules of society or positive law.” Similarly, Kim (1981) defines natural law as “the law to which men are obliged to conform [under] the dictates of God, or of Nature, or of Reason” (p. 33). Natural law and natural rights are central concepts in John Locke’s political philosophy (Tuckness, 2010). According to Shestack (1998), Locke characterized human beings as being in a state of nature. In this state, natural rights can ensure people’s basic freedom, which affects their life, liberty, and property, and everyone has the freedom to self-determination. Setting up a body politic can contribute to the protection of natural rights of life, liberty, and property. In Chapter II of *the Second Treatise of Government*, Locke (1988) emphasized that all men in the state of nature are free, equal, and independent. People have the rights to do as they wish, but their behaviors should be situated “within the bounds of the law of nature” (p. 269). Men ought not to invade others’ rights or do harm to one another, even in the state of nature. However, Locke’s view of respecting other’s rights is applicable when an individual’s “own preservation comes not in competition” (p. 271). That means if a person cannot guarantee his or her life and freedom, there is no need to respect others’ rights. Despite the connection between natural law and natural rights, natural rights play a primary role in Locke’s philosophy. Similar to Locke, Jefferson developed his idea of duty (Jayne, 1998). Jefferson maintained that the right to liberty is restricted by a duty to respect others’ rights. In the letter to Isaac H. Tiffany on April 4, 1819, Jefferson characterized liberty as “unobstructed action according to our will; but rightful liberty is the unobstructed action according to our will, within the limits drawn around us by the equal rights of others” (Jefferson, 1999, p. 224). However, he also contended that he did not “add ‘within the limits of the law,’ because law is often but the tyrant’s will” (p. 224).

Natural rights are “rooted in a natural condition of personal freedom” and seen as “the inborn and inalienable possession of every human being” (Zagorin, 2009, p. 21). In the letter to John Trumbull on February 15, 1789, Jefferson considered Locke as well as Bacon and Newton as “the three greatest men that have ever lived, without any exception, and as having laid the foundation of those superstructures which have been raised in the Physical & Moral sciences” (Jefferson, 1789). Based mainly on John Locke’s concept of natural rights that “people logically have rights to protection from others in their life, liberty, and property” (Weatherley, p. 17), Jefferson transformed the concept of natural rights into the concept of human rights. When it comes to American human rights discourse, Jefferson’s views are crucial. As Koch and Peden (1944) contend, in the period of American Enlightenment, there was no leader as articulate, wise, and aware of the implications of free society as Jefferson. His human rights thinking has been highly influential in the configuration of U.S. society.

When drafting the Declaration of Independence, Jefferson emphasized that “we hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness” (*Ushistory.org*, 1995). Natural rights theory is a significant philosophical inspiration for the United States Declaration of Independence.

Jefferson considered the right to life, the right to liberty, and the right to the pursuit of happiness to be basic human rights. He gave priority to the right to life, a right to what is our own. The right to liberty emphasizes that nobody has a right to obstruct others. As well as life and liberty, the pursuit of happiness is an unalienable right, which cannot be given up or taken away (Jayne, 1998; Zuckert, 1996). As Jayne says, “nothing then is

unchangeable but the inherent and unalienable rights of man” (1998, p. 117). In this sense, Jefferson represents the affirmation of the inherent value of individuals.

Although China does not have a tradition of discussing rights, some philosophical ideas are representations of Chinese natural law. Scholars think that the ideas of Lao Zi on Taoism reflect the origin of natural law in China (Cheng, 2000; Kim, 1981; Zhang, 1991). Lao Zi’s work, the *Tao Te Ching* (1985), is the most distinguished work on Taoism. It began as a discussion between 6th century B.C. and 4th century B.C., in ancient China. This was the period of social transformations from slavery to feudalism. At that time, people were concerned with ideas of peace and nonviolence. The *Tao Te Ching* does not conceptualize human rights, natural rights, or natural law *per se*, but probably as a reaction to the concerns of the time, it relies on words and concepts close to natural law. According to the *Tao Te Ching*, in managing human affairs as well as in ruling a nation, it is necessary for the authorities to follow the concepts and principles of Tao. “Man models himself after the Earth; The Earth models itself after Heaven; The Heaven models itself after Tao; Tao models itself after Nature” (Lin, pp. 145–146). The concept of Tao, signifying the way or principle of nature, is a key word to both Taoism and Confucianism. While Confucius interpreted Tao as ethical principles of society, Lao Zi extended the concept of Tao to the level of nature and the universe. Tao can be the law of how the universe works, or a principle which helps govern a country and guide people to take action. From the perspective of Lao Zi, the essence of Tao is nature. Tao is self-existent and intangible, but its use is inexhaustible.

The Tao of Taoism, the Way of Heaven, which goes beyond the Tao of Confucianism, the Way of Man, is implicitly represented in the thoughts of Feng Youlan (2012), one of

the most prominent philosophers in modern China. Feng posits four realms of human life: the natural realm (to behave instinctively), the utilitarian realm (to behave for individual benefit), the moral realm (to work for the development of society), and the universal realm (to work for the development of universal benefit). He maintains that in natural and utilitarian realms, people are what they are currently, and in moral and universal realms, people are what they should be. The first and second realms are typical states of people in a society; moral and universal realms are ideal human states and higher life goals. He does not relate Confucianism or Taoism to his concept of four realms of human life. However, according to Feng, Confucianism complies with values in the moral realm. In the highest realm, the universal realm, people take actions willingly in order to serve the universal benefit. Meanwhile, they are aware of the value of their actions. The universal realm is similar to the goal of Lao Zi.

3.2 Limitations of Taoism and Development of Confucianism

Taoism is the origin of Chinese natural law and the concept of Tao is often compared with the concept of natural law in the West. It seems that China could develop the idea of natural law based on Taosim. However, Taosim is not comparable to Confucianism in China. The construction of Lao Zi's ideas about natural law was based on the specific reality in which Lao Zi was engaged, but these ideas might not be applied in the context of other periods, because of their academic abstraction. In Lao Zi's works, the concept of Tao is too general and inclusive to be understood. In Chinese, people can understand Tao as way/principle/path/road/order/truth/track. In order to understand the nuances of these abstract words, people have to relate them to social contexts. The understanding of social

contexts may result in different interpretations of Tao.

In the early Western Han Dynasty (202 B.C. – 9 A.D.), the authorities applied “Wu Wei Er Zhi” (govern by doing nothing) in Taoism to govern China, in order to help the country recover from war. Lao Zi thought that by doing nothing, everything is done. The authorities enforced popular policies to gain more support from the public, including reducing people’s tax liability, abolishing cruel punishments, and weakening the power of upper classes. However, as a small bird that could fly high but would be watched by an eagle, people could not truly enjoy their benefits permanently. This kind of democratic autocracy is a byproduct of authoritarian failure, because when leaders maximize their power over inferior groups, some group members gradually realize the importance of democracy and may take certain actions to build up a relatively democratic regime. However, this transition cannot change the arbitrary nature of “rule of man.” As a central point in Confucianism, “rule of man” emphasizes good governance as rule by leaders who are intelligent and virtuous. Confucianism emphasizes people’s moral responsibilities, while Taoism focuses on what is inside people and their natural states. The authorities looked to Confucianism in order to govern their country, regardless of other philosophical ideas. Rather than Taoism, Confucianism has been dominant in Chinese culture.

3.2.1 Confucian Influence

Recent studies use Confucianism to analyze Chinese human rights discourses and compare them to Western human rights discourses. De Bary (1998) believed that Confucius focuses on moral cultivation and consensual social rites rather than laws. In

the Analects, Confucius says “Lead them by means of regulations and keep order among them through punishments, and the people will evade them and will lack any sense of shame. Lead them through moral force (*de*) and keep order among them through rites (*li*), and they will have a sense of shame and will also correct themselves” (De Bary, Bloom & Adler, 1999, p. 46). The West sees constitutional law as the fundamental support for human rights protection (De Bary, 1998). However, Confucius prefers the role of human beings for social development rather than the role of law. Chinese traditions do not have faith in law.

In some aspects when state power and human rights have a conflict, they give priority to state power rather than law. In China’s history, the weakness of rights’ consciousness, which comes primarily from Chinese traditions and language, plays a profound role in contemporary Chinese human rights practice. Different from the tendency to depend on the law for human rights protection as is the case in the West, Confucianism emphasizes the application of consensual values of human behaviors such as respecting elders and taking responsibility for community. These traditions, as well as language, contribute to the weakness of human rights consciousness.

Some Confucian elements are incompatible with the concept of human rights, making it difficult to advocate human rights consciousness. Confucianism characterizes the imbalanced ethical relationship between parents and children, men and women, elder and younger generations, and rulers and subjects. On the one hand, the traditions of having loyalty to elders and complying with the dominant motivate the Chinese to become responsible for others. On the other hand, these traditions also advocate a vertical hierarchy in Chinese society and increasingly justify paternalism by prioritizing common

demands and limiting individual values. For the authorities, Confucian hierarchy can relatively easily help them govern a “familistic state” characterized by Max Weber (as cited in Fairbank, 1983, p. 24). Furthermore, in Confucian hierarchy, people live in their networking, which means they have to fulfill responsibilities for their communities before seeking their personal goals and values. A Confucian point “Tianxia weigong” (all-under-Heaven as shared in common) implies that people seek their own desires at others’ expense and they should act in the common interest. If a person can benefit others, then they will benefit this person as well. It is hard to tell whether Confucianism is compatible with the concept of human rights, but some elements in Confucianism are incompatible with the concept of human rights, thus limiting Chinese human rights consciousness.

3.2.2 Language Influence

Wittgenstein (2012) argues that the limits of human language mean the limits of how we understand the world. According to Gergen (2009), language is the central vehicle through which people construct the real and the good. People inherit lasting rules of language and these rules and traditions enable people to communicate with others in proper ways. Language not only serves as a communication tool, but also a representation of perception and thinking, because the way people think is provided by the language that they utilize (Burr, 2003).

As scholars focus on the importance of language in sociocultural construction processes (Leeds-Hurwitz, 1995), language influences the social construction of human rights thought. The limit of language defines the limit of Chinese human rights discourse. According to Angle and Svensson (2001), there was no Chinese term which

corresponded to the English term “rights” until the 19th century. Compared with a 5000-year-long civilizational history, China has a short history of talking about rights.

Although China has prominent philosophical ideas, which could have helped the construction of human rights concepts, lacking words for rights prevents people from developing the idea of human rights.

Human rights, called “renquan/人权” in Mandarin, is a translation word from the West. “Renquan” is the compound of “ren” (human) and “quan” (right). Consider the word “ren” firstly. “Ren,” referring to “human/ren/人,” can be understood as an individual or a group of individuals. It is the synonym of “min/民.” “Min” can be understood as “people/ren min/人民” or “citizen/gong min/公民”. These two words have two semantic differences in Chinese. The first difference is definition. “People/ren min/人民” refers to those who can help the development of a society, support socialism and national unification, while “citizen/gong min/公民” refers to a person who has a nationality, is entitled to have rights and fulfill duties according to the Constitution and other laws. These two definitions show that “people/ren min/人民” is a political concept and “citizen/gong min/公民” is a legal concept. The second difference is that “people/ren min/人民” is a collective concept and emphasizes a general group in a society, while “citizen/gong min/公民” is an individual concept and emphasizes an individual in a society. The Chinese government is inclined to follow the collectivism perspective to understand human rights. Therefore, governmental documents construct the meaning of group rights through the concept of human rights. In the term “human right/ren quan/人权,” the second word “quan” comes to mean

power within many Chinese social contexts, but here “quan” can be understood as two words “quanli/权力(power)” and “quanli/权利(right),” which have the same pronunciation but different characters. The first “li/力” means force and the second “li/利” means benefit. The meaning of the second “quanli” is most similar to that of the word “right.” However, in Chinese human rights discourse, the second “quanli” is often related to another Chinese word “yiwu/义务,” which refers to duty or obligation. The Chinese constitution says that Chinese citizens have the rights that the constitution and other laws allow, and at the same time, they must fulfill obligations that the constitution and other laws require (*Xinhua News Agency*, 2004). Duties entail other people’s rights and rights entail other people’s duties. In this regard, in the collective context, although China protects human rights, the implementation of human rights is conditional, which depends largely on whether individuals perform their duties and contribute to society. According to Feinberg (1970), a claim asks for a right and a right is a valid claim. Valid claiming plays an important role in understanding what rights are in China. As noted above, China does not have a tradition of rights. If people do not know about rights, then “they do not have a notion of what is their due; hence they do not claim before they take” (p. 249). Even in contemporary China, when people become increasingly conscious of their rights, they may not be able to claim a right unless someone violates their rights.

CHAPTER 4

THE CONSTRUCTION OF HUMAN RIGHTS ISSUES IN CHINESE AND U.S. MEDIA

Chapter 3 explains the historical and cultural specificity of human rights between China and the U.S. from a philosophical perspective. Along with philosophical discourse, news discourse plays an important role in constructing human rights issues. When it comes to the politics of news media in the U.S., Parenti (1993) believes that “what passes for the news is a product of many forces, involving the dominant political culture and powerful economic and government institutions” (p. 69). What those forces attempt to influence is constructed in media coverage. Chinese dominant media construct realities of the world in a similar way. The construction of human rights issues depends mainly on what occurs in the U.S. and China, but diverse forces may relate very different social contexts in news reporting, and control the flow of information in order to fulfill their interests. This chapter compares how the Chinese and U.S. media construct human rights issues within historical, cultural, and social contexts, and explores how governmental power and the influence of social norms take active roles in the construction of human rights issues, specifically regarding China’s one-child policy.

4.1 Discussions on the One-Child Policy and Human Rights

The one-child policy, also called the family planning policy, began in 1979 in China and compels couples to produce no more than one child. This means that generally, a family is made up of parents and their single child. This policy helps the government control a large population and the Chinese people to access severely limited social resources, but it limits a family's freedom to have children and may lead to human rights violations, such as forced abortion. One of the reasons this thesis selected the one-child policy is its contested nature between China and the U.S. The Chinese government emphasizes the validity of the policy, while the U.S. thinks of it as a gross violation of human rights. U.S. Congressman Chris Smith (2011) claims that "it is state sponsored cruelty and constitutes massive crimes against humanity" in his opening remarks in a hearing on Chinese human rights issues. Prominent U.S. media adopts an attacking position on the issue, while the Chinese mainstream media takes on a defensive tone. This chapter discusses three consequential implications: individual/collective human rights, positive/negative rights, and critical/optimistic stances.

4.1.1 Individual Rights and Collective Rights

News discourse in *the New York Times*, *the Washington Post*, and *the Los Angeles Times* focuses on mothers' universal rights, human rights violations, and sexual imbalance and discrimination based on an individualist perspective. The construction of U.S. media discourse depends largely on the U.S. society's acceptance of individual human rights. U.S. traditions demonstrate that human rights are universal and transcendent for all human beings, regardless of class, gender, race, nationality, and so

on. Therefore, the media construct China's one-child policy as a human rights violation. The following texts demonstrate how the U.S. media constructs human rights issues regarding the one-child policy:

Thirty years after it introduced some of the world's most sweeping population-control measures, the Chinese government continues to use a variety of coercive family planning tactics, from financial penalties for households that violate the restrictions to the forced sterilization of women who have already had one child, according to a report issued by a human rights group. (*The New York Times*, Dec 12 2010)

Forced abortions and sterilizations are the bane of villagers in this gentle farmland along the easternmost stretch of the Yellow River, about 200 miles southeast of Beijing. Across the country, overzealous enforcement of family planning rules, along with land confiscations, is one of the biggest sources of anger toward the Chinese Communist Party. (*Los Angeles Times*, June 16 2012)

The law also has been severely criticized. There were reports of some provinces forcing women who became pregnant in violation of the policy to undergo late-term abortions or sterilizations. There were earlier stories of female infants being killed because of a preference for boys. China now has a gender imbalance due to the policy. (*The Washington Post*, January 19 2012)

These texts reflect the U.S. media's respect for individual autonomy and categorization of forced abortion and sterilization as human rights violations. Texts with either a liberal bias or a conservative bias may underscore different aspects of rights violations. Liberal texts generally assert that the one-child policy violates mothers' rights, while conservative ones usually claim that the one-child policy violates the rights of fetuses and mothers. Words such as "coercive," "violate," "forced," "overzealous," and "severely" position the Chinese government as powerful and merciless and Chinese people as innocent victims of its oppression. The harsh conflict between the government and the people emphasizes the innocence of victims. The U.S. media reinforces the Chinese government's negative image with verbs such as "kill" and "force." When these verbs, signifying violence, are used frequently to describe the Chinese government, they

substantiate violations of human rights regarding the one-child policy. The U.S. media points out that government officials force women to have abortions and sacrifice their individual values. The enforcement of the one-child policy prevents a fetus from having the right to live, a mother from having the right to have a child, and a family from having the right to pursue happiness. In the eyes of the U.S. media, Chinese people are the victims of the one-child policy rather than the beneficiaries. Their criticism of the one-child policy is based on an individualist understanding of human rights.

U.S. culture is based on foundations that date back to ancient Greece, a maritime civilization that respected and encouraged competition, adventure, independence, and liberty. The *Iliad* and the *Odyssey* portray the value of individual achievement (Triandis, 2001). Individualism includes the importance of individual liberty and equal involvement of individuals in collective activities (Triandis, 1995). According to Hofstede (1980), the U.S. is the most individualistic of all contemporary cultures, focusing on individual goals instead of collective goals. People's thoughts and actions are assumed to be driven by their personal preferences, needs, and rights.

Contradicting U.S. media interpretation, *People's Daily* and *Xinhua News Agency* indicate that the one-child policy contributes to the development of Chinese society. Without any population control, China could fail to provide appropriate public resources to a large number of individuals. From a collective perspective, reports imply that the country can benefit from this policy. The following texts demonstrate how the Chinese media construct human rights issues regarding the one-child policy:

“China's per capita GDP reached 2,400 U.S. dollars in 2007,” Li said. “Without the policy, that figure, according to official calculations, would have been 1,800 U.S. dollars.” Besides, “if not for the population control, the country's resources and environment would face even heavier pressure, as its per capita arable land, grain,

forest, water and energy would decrease by 20 percent,” she added. Family planning also helped improve the standard of living in China. The country’s average life expectancy has risen from 68 three decades ago to 73 today. That’s the same level in moderately developed countries. (*Xinhua News Agency*, October 24 2008)

The global population will hit 7 billion at the end of this October, according to the 2011 State of World Population Report issued by the U.N. Population Fund on Oct. 26. As the “Day of 7 Billion” is drawing near, reporters have learned from the National Population and Family Planning Commission that the global population grows by about 80 million people every year. Since China introduced the family planning policy over 30 years ago, the policy has prevented 400 million births, and delayed the “Day of 7 Billion” for five years. The proportion of China’s population to the world’s total has dropped from 22 percent in the early stages of reform to 19 percent in 2010. Without the family planning policy, the country’s population would have already exceeded 1.7 billion. (*People’s Daily*, October 28 2011)

With the words “reach,” “rise,” and “improve,” these texts focus on collective human rights in order to justify the one-child policy. In the eyes of the contemporary Chinese media, China has a large population and not every individual has the opportunity to enjoy public service and social welfare, although theoretically, everyone should have rights as a human being. In order to protect most people’s rights, it is necessary to control the population. The reduction of population helps improve the living standard of individuals as well as upgrading the conditions in Chinese society. Within this context, Chinese media describe the one-child policy as an effective tool for population control. If individuals want to be protected by policies about human rights, they should follow moral principles and duties first. China assigns priority to collective goals rather than individual goals.

China is a predominantly agricultural country, which focuses on the working labor groups and the communities on which individuals depend. In the past, an individual’s work belonged to their family. De Bary (1998) points out that “a family was the predominant social and economic institution in an agricultural society and in many

aspects it furnished the theoretical model for other institutions such as the patriarchal dynastic state” (p. 17). Moreover, China has relatively impoverished economic conditions that impede the implementation of individual action (Wang, 1994). This limitation enables the Chinese to concentrate more on common ideas rather than individual rights. Specifically, the human rights discourses in China focus more on collective values. Confucianism, the dominant Chinese philosophical idea, has influenced China ideologically for thousands of years. Imperial dominance, which attaches importance to Confucianism, began when Emperor Wu (141 B.C.–87 B.C.) of the Western Han Dynasty implemented ideas from Confucianism in ruling China (Dubs, 1938). With a focus on duty-based morality, Confucianism concentrates largely on good social relationships that are unequally based on mutual responsibilities (Hofstede, 1991). As a consequence, collective values are more highly appreciated than individual values.

The level of individualism or collectivism is affected by cultural looseness and tightness (Gelfand et al., 2011; Pelto, 1968; Triandis, 1995). Cultural tension depends on the level of tolerance societies have for deviance from and variation on commonly held norms (Gelfand, Nishii, & Raver, 2007). Tightness emphasizes unambiguous protocols and severe sanctions for those who deviate from them. Looseness refers to the absence of formality, discipline, and order. In general, individualism is a result of looseness while collectivism is a result of tightness. Tight cultures are more likely to have strong social norms, more regulations and laws, and a lower tolerance for deviant behavior; loose cultures have weaker social norms and a higher tolerance for deviant behavior. Although tight cultures are tolerant of foreigners, they are severe “in requiring that ingroup

members behave according to ingroup norms” (Triandis, 1989, p. 511). It is important that people follow specified social practices to make correct decisions. Compared to the U.S., China has a tight culture. People learn appropriate behaviors through socialization into the institutions of the culture, which instructs them to behave in ways that perpetuate those institutions (Berger & Luckmann, 1966). Chinese culture does not consider it desirable to encourage women to have abortions. When the government enforces the one-child policy, delivering children without permission is seen as a deviant behavior.

4.1.2 Negative Rights and Positive Rights

When scholars define human rights, they tend to distinguish between negative rights and positive rights. Positive rights, like the right to education, require “positive action from the duty-bearer, namely the welfare state” (Weatherley, p. 24), while negative rights, like the right to life, require noninterference from others. Civil and political rights are seen as negative rights, because their violation includes “the direct infliction of injury” (Donnelly, 1989, p. 34). Scholars characterize social, economic, and cultural rights as positive rights. The violation of positive rights includes the failure to provide a decent standard of living, appropriate social welfare, and health care. Social, economic, and cultural rights are frequently viewed as rights of the second generation, while political rights and civil liberties are considered as first-generation rights (Hamm, 2001). Chinese media prefer discussing positive rights. However, some U.S. scholars, like Maurice Cranston, maintain that social and economic rights are not universal, practical, or paramount. They insist that these rights are based upon the level of economic development and cannot be counted as human rights. The focus on positive rights is not a

U.S. tradition.

U.S. media report civil and political rights issues regarding the one-child policy. They describe helpless pregnant mothers as the primary one-child policy victims, who were deprived of freedom and forced to have abortions by local government officials. The texts below illustrates that through the mothers' experiences, U.S. media condemn Chinese civil rights conditions:

Pan Chunyan was grabbed from her grocery store when she was almost eight months pregnant with her third child. Men working for a local official locked her up with two other women, and four days later brought her to a hospital and forced her to put her thumbprint on a document saying she had agreed to an abortion. A nurse injected her with a drug. (*The New York Times*, July 23 2012)

Six months pregnant, 38-year-old Ma Jihong was healthy and fit, her body toned from working in the cotton fields. So when 10 people from the local family planning office showed up one morning in October, she slipped through a gap in the concrete wall around the house and bolted like a sprinter toward the main road. Ma was caught and taken in for an abortion. Her family did not see her until later in the day. By then, she was lying in a bed in the Lijin County Hospital with a roll of toilet paper supporting her head. Her complexion was sallow and a dried stream of blood was under her nostrils, her mother-in-law, GaoHongying, said. "They took my daughter-in-law at 9 a.m. By 5 p.m., she was dead." (*Los Angeles Times*, June 16 2012)

The violence of these procedures doesn't only kill the child in some instances. In two of the cases described in a document leaked this past August, the mothers died, too. Those who dissent, meanwhile, are persecuted. (*The Washington Post*, November 11 2009)

The above texts define the government officials' actions as violence. Furthermore, when the U.S. media frames human rights issues in regards to the one-child policy, they like to mention the experience of the Chinese blind lawyer and activist, Chen Guangcheng, as news background. For example:

The case comes just weeks after Chen Guangcheng, a blind activist who battled family planning officials in another province, escaped brutal house detention and fled to the United States Embassy in Beijing. With the aid of American officials, he has

since been allowed to travel to New York to study. Mr. Chen had campaigned to expose forced sterilizations and abortions. (*Los Angeles Times*, June 16 2012)

The diplomatic crisis in the spring over Chen Guangcheng has also brought more attention to the policy. Mr. Chen, a self-taught lawyer who recently escaped from house arrest and left for New York, is perhaps the most famous advocate for women who are forced to undergo sterilization and abortion; his work incurred the wrath of local officials, and the central government ignored his persecution in Shandong Province. (*The New York Times*, July 23 2012)

These texts regarding Chen demonstrate the U.S. media's interest in the Chinese government's treatment of political activists, and their concern for Chinese civil and political rights. When promoting human rights in the international arena, the U.S. emphasizes civil and political liberties. As John Adams said in his Fourth of July address in 1821: "Wherever the standard of freedom and independence has been or shall be unfurled, there will her heart, her benedictions, and her prayers be" (Kirshon, 2012, p. 440).

Following the official position, Chinese official media function as a resistance to criticism from the U.S. media. They emphasize social, economic, and cultural rights in order to confirm the importance of the one-child policy. The following texts prioritize the social, economic, and cultural rights over civil and political rights:

"Without the family planning policy, China would not be able to provide sufficient social welfare for every single child that was born," Hao Linna, director of the International Cooperation Department under the National Population and Family Planning Commission, told a workshop on human rights development in China over the past three decades. "The right to existence, development and education of the next generation would be hampered without the policy," she said. (*Xinhua News Agency*, December 2 2008).

From the above texts, it is noted that in the Chinese media, positive rights take priority over negative rights. Furthermore, the Chinese media integrate social interests into the construction of positive rights, though there seem to be some differences between

rights and interests. This tendency derives from Chinese human rights thinking. Many Western rights advocates argue that rights are based on “moral principles whose justification is derived independently of the good,” rather than utility or social consequences (Peerenboom, 1998, p. 251). Different from U.S. philosophers discussing rights over interests, Chinese human rights thinkers argue that rights can be used to protect social interests (Angle, 2002).

Chinese scholar Li Buyun (2001) says that the foundation of rights is interests, and the relationship between rights and duties is based on the relations between interests. In this regard, Chinese discourses describe rights as utilitarian. People promote human rights in order to fulfill their personal needs and interests. In the Chinese word “quanli/权利(right),” “li/利” means benefit. Therefore, when people choose “li” to explain rights, it is hard to distinguish between rights and interests. Additionally, Chinese traditional norms emphasize the importance of contributing to the welfare of the group. These factors influence the construction of human rights issues in Chinese media. In the case of the one-child policy, Chinese media focus their attention on the protection of social welfare.

Although a large number of Chinese citizens express their anger towards forced abortion, *People's Daily* and *Xinhua News Agency* do not speak for those pregnant mothers who were forced to have abortions. Civil and political rights are not their focus. However, this does not mean they simply focus on the upsides of this policy. During the past 3 years, they have begun to focus on the condition of parents who lost their only child. The Chinese official media do not criticize the one-child policy, but they report that these parents fail to enjoy their positive rights, in part due to the one-child policy. The

following texts demonstrate this growing problem in China:

Zhang Taomei, 51, lost her only son in 2003. Zhang's thyroid cancer has relapsed, and her husband had a stroke and went blind some years ago. Nursing homes refuse to accept her husband, because they have no custodian to sign the papers, Li said. Healthcare and old-age support are the biggest concerns for these families. (*People's Daily*, November 28 2012)

Professor Pan was very supportive of China's family planning policy and often encouraged couples to get married late and have just one child. He was 35 when his son was born. When he was 70, however, his son died of acute heart disease. Pan and his wife applied to move into a nursing home, but were rejected because the home required contact information for their next of kin, as relatives of the home's residents are required to pay bills and take responsibility for them in the event of an emergency or sudden ailment. (*Xinhua News Agency*, September 14 2012)

The government is planning to seek a way to provide assistance to elderly citizens who have lost their only child, a senior civil affairs official [Dou Yupei] said on Thursday. Dou said, this elder care problem is new for the country, as it has only surfaced since the 1980s, when China implemented family planning policies to control its population. According to current policies, the government supports elders who are not able to work, have no source of living and have no one to support them, Dou said. Accordingly, parents who have lost their only children should also be supported by the government, Dou said. (*Xinhua News Agency*, September 20 2012)

When it comes to difficulties of families who lost their only child, the tone of these texts is not as optimistic and promising as it comes across in the evaluation of the one-child policy. Instead, these articles address a growing problem in order to suggest revising the policy. The emergence of this susceptible and lonely group demonstrates the limitations of the one-child policy. In Chinese culture, children should be the primary source of legal, financial, psychological, and social support for parents in their old age. Without children's help, parents may become a vulnerable group that is in urgent need of better social welfare. The articles, which concentrate on parents who lost their only child, indicate that the government should take responsibility to guarantee these parents' positive rights to have a high-quality later life. This does not mean the one-child policy is solely responsible for those families who lost their child, but its implementation does play

a profound role in the social security and well-being of Chinese people. As the Universal Declaration on Human Rights indicates, “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family” (The United Nations, n.d., Article 25).

4.1.3 Critical Stance and Optimistic Stance

The language of news coverage plays an important role in helping the public understand human rights-related information. The construction of language is related to social traditions. When constructing human rights issues around the one-child policy, the U.S. media takes a critical stance towards the policy, which derives largely from U.S. traditions. In the U.S., the one-child policy has been criticized for violating universal human rights, evidenced by forced sterilization, abortion, and imbalanced sex ratios. The following U.S. media texts use the word “scandal” to explain human rights violations regarding the one-child policy:

Enforcement of the policy has softened markedly in recent years, with most areas relying on fines to ensure compliance. But scandals over forced abortions continue to arise periodically. The restrictions also have deepened a severe imbalance in the ratio of boys to girls in the population because many families have used selective abortions to ensure the birth of a son, the traditional preference. (*The New York Times*, February 29 2008)

In a scandal that has drawn widespread coverage, parents and grandparents claim that officials from Longhui, a county that is administered by Shaoyang, illegally seized at least 16 children between 1999 and 2006 because of allegations that family planning rules were violated. Caixin Century Weekly, a Chinese magazine, reported in May that some were later adopted by foreigners. (*The New York Times*, September 30 2011)

One of the few incontrovertible assertions one can reasonably make is that no one supports forced abortion. Yet, coerced abortions, as well as involuntary sterilizations, are commonplace in China, Beijing’s protestations notwithstanding. While the Chinese Communist Party insists that abortions are voluntary under the nation’s one-

child policy, electronic documentation recently smuggled out of the country tells a different story. (*The Washington Post*, November 11 2009)

In sharp contrast with the U.S. media, the Chinese official media emphasizes the effective side of the one-child policy. Through positive verbs such as “contribute,” “increase,” “achieve,” “accelerate,” and “rise,” the following texts insist that the one-child policy is a contribution to China’s development. In other words, the Chinese media gives priority to the upsides of the one-child policy rather than to its downsides:

Saturday marks the 30th anniversary of China’s one-child policy. China’s population development measures have attracted worldwide attention since its family planning policies were launched in 1980. The effective control of population growth has contributed much to China’s social and economic development over these 30 years. (*Xinhua News Agency*, September 24 2010)

China also increased average per capita education attainment of the population aged 15 and above from 4.5 years to 8.5 years in 2007, and achieved a 99.3-percent coverage rate nationwide with regard to universal access to 9-year compulsory education. The rural population with poverty has been reduced from 250 million to 40. 07 million, which helped accelerate the global poverty alleviation process. China’s rank on Human Development Index (HDI) rose from No. 105 in 1990 to No. 81 in 2007, the minister said. China’s family planning policy has been in effect for more than three decades. The policy limits most couples to one child in urban areas and two in rural areas, and it has prevented an estimated 400 million births. (*Xinhua News Agency*, March 31 2009)

China’s one-child policy has proved to be efficient for population control and economic development, despite concerns over gender imbalance and an aging population as a result of the 30-year-old program, demographers said Saturday. (*People’s Daily*, September 26 2010)

These media stories illustrate that the ways in which the Chinese and U.S. media report human rights are the results of their different historical, social, and cultural perspectives. The one-child policy is a specific example in contemporary China, but it is closely related to the influence of Chinese traditions on human rights, the differences between individualism and collectivism, and the differences between negative and positive rights. Although the Western term “human rights” is accepted by Chinese society,

what China requires Chinese people to understand is different from what the Americans understand regarding human rights. As Chapter 3 demonstrates, these two countries have similar elements of human rights, but these elements may not be transcendent. These discourses must be understood in their respective sociocultural contexts.

4.2 Human Rights: One Term, Multiple Understandings

Human rights discourse in the East and West is dynamic (Angle, 2002). When specifying human rights in a given country and taking more contextual factors into account, people may not be able to determine immediately if human rights are protected or violated. Everyone has his or her own criteria for human rights. MacFarlane (1985) says that human rights are owed to “each man or woman by every man and woman solely by reason of being human” (p. 3). However, he does not specify what the “reason of being human” is, which provides the possibility of different interpretations. The “reason of being human” may come from social implications in a collective society, or it can be granted naturally as in U.S. values. If the “reasons of being human” differ in different countries, it is hard to explain human rights generically. Thus, definitions of human rights are controversial and widely disputed.

Both Svensson (2002) and Burr (2003) argue that different words can construct or express the same concept in different ways, and the same concept may convey various meanings in different political, economic, cultural, historical, and social contexts. Despite some nuances between natural rights and human rights, they share many similar characteristics. In Jefferson’s works (1944), natural rights is seen as the predecessor of human rights. The term “human rights” is commonly accepted by China and the U.S.

However, these two countries construct the same term within very different cultural contexts. This is, as a Chinese maxim says, “sleeping in the same bed but dreaming different dreams.”

Human rights became a shared term, in part because of its universality. U.S. conceptions of human rights emphasize that everyone is created equal and entitled to human rights, so scholars like Maurice Cranston support the universality of human rights. Chinese scholars also believe in the universality of human rights, but they prefer to focus on the relativity of human rights (Li, 2001; Liu, 1996; Xia, 2001). When the Chinese government and media contextualize human rights, Chinese perception of human rights is not same as in the U.S.

As Chapter 2 discusses, scholars like to use universalism or relativism to talk about human rights, usually triggering critical arguments. It is easy to understand the following universal values: no one wants to be imprisoned or executed for criticizing the government, and no one wants to be deprived of freedom of speech. However, it may be difficult to understand how different countries employ these values in particular contexts. Human rights are accepted by China and the U.S., but from the two governments’ annual human rights records, similarities and differences co-exist. Both emphasize the importance of respecting life and freedom, but China and the U.S. differ about the processes of respecting life and freedom, which may be regarded by each as violations of human rights.

4.3 Taking Versus Giving

The recent human rights tension between China and the U.S. is associated with the difference between individualism and collectivism, but social realities may help people paint a much more complicated picture where there are collectivistic phenomena in the U.S. and individualistic ones in China. Relatively speaking, the U.S. has a limited consciousness of duties and China has a somewhat limited consciousness of rights. Ideally, both countries could benefit from a more comprehensive understanding of both concepts. Some scholars argue that rights and duties are the flip sides of the same coin (Svensson, 2002). What a country can do for people is as important as what people can do for a country. When some scholars, like Green, stress the communitarian aspect of rights, they realize that people need to claim a right that can contribute to the common good instead of a right against the development of a society (Svensson, 2002). Theoretically, having individual rights without any concern for others may impede the development of a society. Both rights and duties become paramount when a country gets involved in the international human rights community. What matters is how a society constructs power relations behind human rights issues in order to balance rights and duties.

Power entails the following meanings: 1) the ability to do or act; 2) government, influence, authority; 3) political or social dominance or control (Ledyaev, 1997, p. 171). Foucault (1994) illustrates that “power is everywhere not because it embraces everything, but because it comes from everywhere, [and] it is the name that one attributes to a complex strategical situation in a particular society” (pp. 92–93). Max Weber describes power as “the probability that one actor within a social relationship

will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests” (Weber, 1947, p. 152). Weber understands power as a relationship between individuals, including conflict and its resolution. Some scholars argue that “power only exists in situations of conflicts between actors where the power holder acts against a subject’s interests (wants, desires, needs, preferences)” (Ledyaev, 1997, p. 107).

As Chapter 3 argues, China has philosophical ideas related to natural law since ancient times, so how do human rights violations occur? In China, power has become highly centralized in the hands of the privileged few and their descendants rather than shared broadly. The abuse of power affects Chinese human rights practice. As a consequence, Chinese human rights thinking and practice are disconnected. In a written interview with a Reuter’s reporter in 1945, Mao said:

In a democratic China, all levels of government are determined by universal, equal, and anonymous elections and will be responsible for their electorates. China will achieve Sun Yat-Sen’s Three Principles of the People (nationalism, democracy, and government for the people), Lincoln’s principle of ‘government of the people, by the people, for the people,’ and Roosevelt’s Four Freedoms (freedom of speech and expression, freedom of every person to worship God in his own way, freedom from want, and freedom from fear). (*People’s Daily*, 1945)

Unfortunately, Mao’s blueprint has not come true. Although the powerful consider China to be a society with the “rule of law,” the “rule of man” has been embedded in their cultural consciousness for a long time. There is not an independent judiciary in China and the idea of hierarchical power still strongly influences Chinese society.

The Chinese government commonly makes efforts to reconcile different groups of interests and achieve social harmony. The goal of social harmony is to integrate different elements of members of a specific society at a specific time into a single

unified whole (Peerenboom, 1998). In order to obtain a unified social order, the relatively powerful groups sometimes utilize violent methods to achieve the so-called social harmony they envision. They believe that power is the primary source of social conformity. The powerful groups take power for granted and assume that others have no power to rebel. Affected by more influential persons or their greed for personal desires, they abuse power to compel the less powerful groups to submit in order to maintain their authority and the cosmetic appearance of unity. In fact, there is a difference between unity and harmony. Chinese scholar Xia Yong insists that “unity leads to stability through making everyone the same; harmony seeks the same end through accommodating differences” (Angle, 2002, p. 234). Some powerful groups use the label of harmony to implement unity. As a consequence, achieving harmony becomes an excuse for the use and abuse of power. The violations of *quan li*/rights in China are repeatedly accompanied by the abuses of *quan li*/power.

However, the U.S. human rights record, as characterized by China, is that the U.S. rights-based policies and actions are dysfunctional. When the U.S. criticizes China’s human rights practices, China’s response has a Western tone: people who live in glass houses should not throw stones. Gun violence is the first U.S. human rights violation in the foreground. The 2012 U.S. human rights report by China says that “firearms-related crimes posed a serious threat to the lives and personal security of citizens in the U.S. Some shootings left astonishing casualties, such as the school shooting in Oakland, the Century 16 theater shooting in Colorado and the school shooting in Connecticut” (The State Council Information Office, 2013). A gun is a two-fold symbol, which can both protect and threaten people’s safety. In the U.S., people have the right to use guns to

protect their own safety, but at the same time, carrying guns is dangerous to public safety, so it is illegal for the general population to have guns in duty-based China.

Chinese human rights reports criticize the U.S. practice that prioritizes the right to keep and bear arms over the protection of citizens' lives and public security; gun rights lead to the increased rate of violent crime and prevent people from enjoying their human rights. The right to keep and bear arms functions as a traditional part of the right to self-defense, which can be traced back to the period of the American Revolution. The U.S. Bill of Rights confirms the right of the people to keep and bear arms, along with the rights to freedom of religion, freedom of speech, and freedom of the press, and the right of people peaceably to assemble and to petition the government for a redress of grievances (*National Archives and Records Administration*, n.d.). Under the influence of individualistic values, the U.S. favors the right to have firearms, which becomes a target of China's response to U.S. human rights violations.

Western liberals insist that civil and political rights can be implemented in different societies regardless of the influence of the political system and the state of economic development (Svensson, 2002). This preference is expressed through prioritizing civil and political rights over social, economic, and cultural rights. It is one of the reasons why the U.S. government primarily talks about civil and political rights practices in its Chinese human rights report every year. However, while upholding civil and political rights, the U.S. government does not promote social and economic rights for all its citizens, which the Chinese government regards as human rights violations.

The human rights discourses in Chapters 3 and 4 are not merely written words. They are intimately tied to social practices that influence what a society can do and what can be

done to a society. Claiming individual rights without any consideration of collective rights cannot reflect the totality of human rights. In the same way, sacrificing individual rights in favor of collective rights is not what a civilized society should encourage. Both governments' human rights records warrant criticism. Both countries' dominant media polarize human rights issues. Will these dilemmas continue in human rights relations between China and the U.S.? Rather than discussing incompatibility, can both societies consider seeking a comprehensive dialogue about human rights?

CHAPTER 5

A CONSTRUCTIVE HUMAN RIGHTS DIALOGUE

Chapter 4 mainly discusses how Chinese and U.S. media construct human rights issues differently within different social and cultural contexts. They craft what they speak or write to match the contexts in which they communicate, which emphasizes the importance of language to human rights construction. Berger and Luckmann (1967) argue that the reality of life is filled with objectivations and a primary example of objectivation is the human production of signs. As a system of vocal signs, language is the most important sign system of human society. The characteristic of reciprocity in human dialogue distinguishes language from other sign systems.

Chapter 1 indicates that during the past two decades, the Chinese and the U.S. governments participated in 17 sessions of human rights dialogue. However, from the two governments' annual human rights reports, it is noted that their human rights tension is unlikely to disappear anytime soon. This reality poses questions: Is human rights dialogue effective between these two countries? If so, what kind of dialogue can help reduce human rights conflict between these two countries in their construction of human rights issues? Inspired by constructionist perspectives, Chapter 5 explores the feasibility of having a comprehensive human rights dialogue and seeking comprehensive

development of human rights issues between China and the U.S.

5.1 From Dissemination to Dialogue

Despite the controversy about human rights between China and the U.S., they have some common expectations about human rights issues. Rather than dialogue, governmental documents and dominant media reports have played a dominant role in the U.S.-China human rights communication, which can be considered dissemination, which is a one-way communiqué. Peters prefers dissemination rather than dialogue, when comparing these two communication models. Although dialogue is described as a “medium of participatory democracy” (Peters, 1999, p. 33), dialogue is strenuous and increases the risk of miscommunication because of its interaction and reciprocity. The reciprocity of dialogue is an insufficient ideal. Furthermore, according to Peters, “open scatter is more fundamental than coupled sharing; it is the stuff from which, on rare, splendid occasions, dialogue may arise” (p. 62).

Peters argues that dissemination may create dialogue and has a more basic function in communication. He contrasts dissemination and dialogue by discussing Jesus versus Socrates. While Socrates conveyed his wisdom through dialogue, Jesus disseminated gospel principles. This is what the Chinese and the U.S. governments do when they publish their respective human rights reports. This one-way dissemination may worsen people’s misunderstanding or distrust about human rights issues. Similarly, media reports disseminate distorted or selective news, which contributes to the misunderstanding between China and America about human rights issues. One country’s mass media distorts the other country’s record on human rights by focusing largely on negative issues.

This kind of one-way communiqué channel may increase mutual misunderstanding.

Angle argues that, when it comes to human rights, dialogue is an important process which “can lead to transformed values and perhaps to consensus” (Angle, 2002, p. 18). In his study, Angle cites Bhikhu Parekh’s idea to support this argument: “if universal values are to enjoy widespread support and democratic validation and be free of ethnocentric biases, they should arise out of an open and uncoerced cross-cultural dialogue” (Parekh, 1999, p. 139). Inspired by Parekh, Angle thinks that rather than disseminated criticism, dialogue should be the primary form of international human rights discourse. He also believes that the human rights conflict between the U.S. and China seems unlikely to disappear soon because there is no dialogue about human rights. Rather than disseminated condemnation, people can use cross-cultural dialogue, to “try to make use of the many different voices that can enter into the multiple, overlapping dialogues” (p. 18), accept them, and reduce misunderstandings about human rights. Furthermore, Angle believes that the differences of cultural traditions should become an important theme in human rights dialogue. Similarly, Gergen (2009) emphasizes the importance of dialogue. He insists that if cooperative communication is the source of inspiration and action within social relations, it is important to use dialogue for conflict mitigation. Gergen claims that effective dialogue leads to shared understanding and successful dialogue depends largely on how people respond to questions. “Communication is a risky adventure without guarantees” (Peters, p. 267). However, the reciprocity of dialogue may help reduce human rights conflicts between the two countries.

No country in the world can handle human rights issues perfectly. Mass media may not be able to find a balance between positive and negative issues when they report on

human rights. It is necessary for the Chinese and Americans to “have mercy” on one another for never seeing themselves as the other does (Peters, p. 267), and have mercy for their respective imperfect and variable social realities. It is difficult to envision that China and the U.S. will eliminate their human rights controversy via dialogue, but cross-cultural dialogue may reduce the cultural misunderstanding of human rights differences caused by the one-way dissemination of reports and documents.

5.2 A Constructionist Dialogue on Human Rights

In recent studies, scholars favor a dialogical approach for intercultural conflict (Evanoff, 2004; Martin & Nakayama, 2012). The dialogical approach “focuses on the importance of dialogue in developing and maintaining relationships between individuals and communities” (p. 35). Dialogue is a respectful and attentive conversation. According to Evanoff, “when problems transcend cultural boundaries, an ethical basis for common action can be constructed through cross-cultural dialogue” (p. 453). He hopes to construct dynamic values and to advocate a constructive approach to enhance international relations rather than a universalist or relativist perspective. It is difficult to formulate a set of universal rules that are applicable to different cultures equally. Relativism is a two-edged sword. On the one hand, relative values can encourage people to adjust general principles to specific occasions. An instance of relativism is seen in the current Chinese president Xi’s recent visit to Russia. Xi mentioned that only wearers know if shoes fit their feet, in order to introduce his point that each country has the right to choose its own road to development. Only Chinese people know if China’s road fits China. Xi’s speech illustrates the upside of relativism (Jin, 2013). On the other hand, if individuals judge

others from the perspective of their own culture instead of from the perspectives of other cultures, they may cause more miscommunication between cultures. Therefore, different countries cannot work together effectively to solve common problems through relativism.

Based on this factor, some scholars prefer a constructive approach to human rights dialogue. As Evanoff says, “a constructive alternative would be for both Asians and Westerners to critically examine their respective traditions to see what they regard as being of genuine value in each and what should perhaps be discarded. At the same time, it may be possible for each side to selectively adopt aspects of the other culture which they also find valuable” (p. 255).

5.3 Between the *Tao Te Ching* and the Declaration of Independence

The narrow conception of dialogue is verbal interaction, but dialogue’s meaning is “not only direct, face-to-face, vocalized verbal communication between persons, but also verbal communication of any type whatsoever” (Vološinov, p. 95). In Vološinov’s opinion, active mutual understanding can be created as a form of dialogue. With regard to this point, China and the U.S. can share a broad human rights dialogue, such as a philosophical exchange between both nations.

Chapter 2 illustrates that some scholars maintain that it is not necessary to compare Chinese traditions and human rights (Svensson, 2002). What they refer to when they say Chinese traditions is Confucianism, the most dominant philosophy in Chinese society. However, this philosophy cannot be the only representative of the wealth of social and cultural traditions in China. In terms of the compatibility between human rights and Chinese traditions, Lao Zi cannot be ignored. His ideas on Taoism encompass the wisdom

of peace (Mindell, 1995). Mindell describes the *Tao Te Ching* as “one of the oldest books on earth” and insists that it “discusses many of the abilities necessary to facilitate groups and get along with people and nature” (p. 188). Following natural law does not mean being truly passive. It means “using the energy of what is happening” instead of pushing things further than they can go now (p. 189).

When analyzing the *Tao Te Ching*, it is noted that some of the ideas can be compared to the values of the Declaration of Independence in terms of life, liberty, pursuit of happiness, and equality. Theoretically, the similar ideas between the *Tao Te Ching* and the Declaration of Independence can be regarded as commonly accepted values by the U.S. and China when they participate in a constructive dialogue.

5.3.1 Life

As well as Jefferson, Lao Zi expressed his care for life. “Soldiers are weapons of evil. They are not the weapons of the gentleman. When the use of soldiers cannot be helped, the best policy is calm restraint” (Lin, 1948, p. 167). Lao Zi did not specifically define the Tao, but from his description that “soldiers are instruments and weapons of evil” (p. 167), we can think of military action as a violation of Tao. Soldiers and weapons symbolize violent power. According to this idea, because violent power can deprive one of the right to life, a gentleman should not resort to it in daily life. The deprivation of life is not a harmonious behavior. A disrespect for life goes against nature. In order to attain a state of harmony between man and nature, people should strengthen their propensity for self-restraint and work with nature rather than against it.

Additionally, Lao Zi described the pattern of an ideal society as “(let there be) a

small country with a small population, where the supply of goods is tenfold or hundredfold, more than they can use. Let the people value their lives and not migrate far. Though there be boats and carriages, none be there to ride them. Though there be armor and weapons, no occasion to display them” (Lin, p. 310). Here “not migrate far” speaks to the principle that people do not have to suffer hardships caused by lasting warfare and move from one place to another. In an ideal society, people can liberate themselves from poverty, hunger, and homelessness. If they cherish the value of lives, they will never use weapons for murder. Furthermore, Lao Zi insisted that the avoidance of tension relies largely on the maintenance of softness, which is the representation of enduring life-giving force. “When man is born, he is tender and weak; at death, he is hard and stiff. When the things and plants are alive, they are soft and supple; when they are dead, they are brittle and dry. Therefore hardness and stiffness are the companions of death, and softness and gentleness are the companions of life” (Lin, p. 305). To promote the value of life, softness and gentleness cannot be neglected; “the more sharp weapons there are, the greater the chaos in the state” (p. 265).

5.3.2 Liberty

Another similarity between Jefferson and Lao Zi is value of liberty. Consider Lao Zi’s famous saying, “Man models himself after the Earth; The Earth models itself after Heaven; The Heaven models itself after Tao; Tao models itself after Nature” (Lin, pp. 145-46). Lao Zi described the blueprint of an ideal world: everything is created naturally; harmony is reached as a consequence. “By doing nothing, everything is done” (Lin, p. 229). This quotation, also translated into “action without deeds,” means that respecting

the principles of nature and the state of freedom can help the achievement of harmony rather than taking action intentionally.

The concept of noncontention (a translation of *buzheng*/不爭) is one of Lao Zi's most important principles. Noncontention is associated with softness. Lao Zi advocated the value of softness, gentleness, and weakness. As the phrase "gentleness is the function of Tao" (Lin, p. 207) reveals, the purpose of being soft and gentle is to put Tao into practice. In Chapter 43 of the *Tao Te Ching*, "the softest substances of the world go through the hardest. That-which-is-without-form penetrates that-which-has-no-crevice" (p. 216). Here the softest substance can be referred to as water, which reflects the nature of gentleness but can overcome the hardest substances, like stone. "There is nothing weaker than water, but none is superior to it in overcoming the hard, for which there is no substitute" (p. 306). In the *Tao Te Ching*, the image of water is used to convey the meaning of softness and flexibility. "The highest benevolence is like water. The benevolence of water is to benefit all beings without strife" (Lao Tzu, p. 48). Just as water runs everywhere without exertion, it is difficult for human forces to control water.

In Chinese culture, people prefer using the mild and benevolent image of water at a spiritual level in order to analogize femininity, peace, or gentility. The approach of being like water can be considered a way to overcome hardness. The physical image of water is tangible, but its spiritual image is hidden in a cultural context as a symbol. As water functions without striving in the natural world, the concept of noncontention can play a profound and indirect role in an ideal society. An ideal society should allow people to have the freedom (i.e., liberty) to make a choice and to take action, and "the more prohibitions there are, the poorer the people become" (p. 265). Noncontention is essential

for the progress of a society. The goal of noncontention is to maintain liberty. Without governors, people are free to do as they wish. Lao Zi focused on a natural state and his focus implies a spiritual freedom of liberty.

Hartz (1991) understands the U.S. as a liberal community. He says that “America was settled by men who fled from the feudal and clerical oppressions of the Old World. If there is anything in this view, as old as the national folklore itself, then the outstanding thing about the American community in Western history ought to be the nonexistence of those oppressions” (p. 3). Based on the liberal tradition in the U.S., Jefferson described in the Declaration of Independence that “a prince whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people” (*Ushistory.org*, 1995). In *A Summary View of the Rights of British America*, he wrote that “the God who gave us life gave us liberty at the same time; the hand of force may destroy, but cannot disjoin them” (Jefferson, 1944, p. 310). In Jefferson’s view, freedom is inherent and unchangeable. Jefferson is not the creator of America’s liberal tradition, but he integrates liberal tradition into his idea of human rights. Further, he attempted to situate liberal values in civil and political settings. In the letter to James Madison in 1787, he said:

I will now tell you what I do not like. First, the omission of a bill of rights, providing clearly, and without the aid of sophism, for freedom of religion, freedom of the press, protection against standing armies, restriction of monopolies, the eternal and unremitting force of the *habeas corpus* laws, and trials by jury in all matters of fact triable by the laws of the land, and not by the laws of nations. (Thorpe, 1901, p. 212)

The focus on civil and political liberty of citizens has become a fundamental value in the U.S.

5.3.3 The Pursuit of Happiness

In the Declaration of Independence, Jefferson substituted the pursuit of happiness for property. He did not provide an explanation for this substitution. However, in his letter to DuPont, Jefferson mentioned that the right to property is a right to the external world rather than a right to what is our own (Zuckert, 1996, p. 80). The rights to life and liberty are unalienable “even though external coercion or duress could cause an individual to renounce these rights externally or to lose the physical manifestation of them” (Jayne, 1998, p. 122). Therefore, he used an inherent right, the right to pursuit of happiness, to replace property rights. The pursuit of happiness is an inalienable right, which was developed in Locke’s *An Essay Concerning Human Understanding* (1836). Locke focused on the constant pursuit of happiness instead of the temporary achievement of happiness, because seeking happiness “consists in the enjoyment of pleasure, without any considerable mixture of uneasiness” (p. 171). Therefore, when addressing the pursuit of happiness rather than the achievement of happiness, Jefferson believed that seeking happiness can liberate people from being obsessed with temporary individual desires.

In *the Tao Te Ching*, Lao Zi did not specify seeking happiness, but he explained how an individual and a society could achieve their happiness. At the individual level, he insisted that “there is no greater curse than the lack of contentment. No greater sin than the desire for possession. Therefore he who is contented with contentment shall be always content” (Lin, p. 225). Rather than struggle for material desires, he advocated complying with nature for the achievement of happiness. At the societal level, Lao Zi described “a small country with a small population” as an ideal society. He hoped to “let the people again tie ropes for reckoning, let them enjoy their food, beautifying their

clothing, be satisfied with their homes, delight in their customs” (Lin, p. 310). Without poverty, hunger, or disaster, people can maintain the state of nature and enjoy the freedom to have a stable life.

5.3.4 Equality

In the Declaration of Independence, Jefferson did not identify equality as a right. However, Jefferson and his colleagues proclaim that all men are created equal, which has been used to understand universal human rights in other parts of the world. For example, in 1789, the fundamental document in the French Revolution, the Declaration of the Rights of Man and of the Citizen, asserted that “men are born and remain free and equal in rights” (Manent, 2006, p. 103).

Similarly, Lao Zi mentioned the spirit of equality. Consider Lao Zi's famous saying, “Nature is unkind: It treats the creation like sacrificial straw-dogs. The Sage is unkind: He treats the people like sacrificial straw-dogs” (Lin, p. 63), for example. Here “unkind” is a translation of “bu ren/不仁.” “Bu” means without and “ren” means benevolence. If a person treats others without benevolence, it illustrates that the person does not have any personal preference and treats others equally. Straw-dogs were regarded as sacrificial offerings in a ritual in ancient China. Without like or dislike, people treated straw-dogs as a ritual tool. Before the ritual, people attached importance to straw-dogs, which does not demonstrate that people liked them. In the same way, after the ritual, they threw straw-dogs away without any personal preference. In other words, they chose sacrificial offerings without love or hate and treated straw-dogs as they treated any other objects. Without love or hate, everything is equal.

When comparing the *Tao Te Ching* and the Declaration of Independence as important assertions of human rights, life, liberty, the pursuit of happiness, and equality are expressed in both Chinese and American values. These similar values provide a possibility of constructing a new human rights dialogue between the two countries. On July 3, 1943, the day before U.S. Independence Day, *Xinhua Daily*, the mouthpiece of the Chinese Communist Party, published an editorial that spoke highly of the spirit of democracy and freedom introduced by Thomas Jefferson. This example demonstrates that, although China has a different understanding of human rights, it can be open-minded to absorb positive aspects of U.S. values.

In a similar way, the U.S. can learn from Chinese philosophical values to advance the development of its society. Some scholars argue that Chinese thinkers emphasize the roles of persuading, cajoling, and manipulating others in order to seek harmony (Peerenboom, 1998). As a consequence, they argue that human rights and Chinese traditions are not compatible. In fact, the compatibility between human rights and Chinese traditions depends largely on the understanding of harmony. In the eyes of Lao Zi, an ideal society can maintain a harmonious state of nature through the achievement of values such as life, liberty, pursuit of happiness, and equality. Harmony cannot be equated with uniformity or sameness. Lao Zi said “Rule a big country as you would fry small fish.” (Lin, p. 177). When cooking small fish, a chef may use different flavors of sauces. Rather than combining the same amount of flavors, the chef would keep the blending of different flavors proportionate for a balanced delicious dish. This balanced connectedness between things is what Lao Zi advocated and what Jeffersonian followers can learn from the wisdom of the *Tao Te Ching*.

5.4 From Blaming to Coordinating

Social reality is a swing dynamic between forces for stability and forces for transformation (Gergen, 2009). People's understandings of social realities are fluid and necessitate transformations in order to advance. In particular, although different countries construct human rights issues within different social, historical, and cultural contexts, they can still learn from each other to achieve positive transformations. Although such transformations take time, appropriate learning and changes may reduce conflicts. Gergen (2009) says, "to communicate across barriers of antagonism is to seek new means of coordination" (p. 113). As Gergen implies, rather than blaming others, human beings should widen their perspectives to think about the ways in which they are living in a society or culture that creates achievements they like or consequences they dislike. When two sides have opposing traditions, they can bring them into forms of transformative dialogue, which may "generate more mutually congenial realities" (Gergen, 2009, p. 118).

In U.S.-China communication, 17 sessions of human rights dialogue have not reduced conflicts between China and the U.S. However, the Chinese and U.S. governments might reconsider what should be conceptualized as human rights, what can be included in their human rights dialogue, and who should participate in such a dialogue.

According to Peters, a communication problem lies in the unfixable difference between each other (p. 266). What China and the U.S. can do first is distinguish fixable and unfixable differences through the process of dialogue. For example, the U.S. and China voted in favor of the Universal Declaration of Human Rights that entails civil and political rights and social rights, but they seldom cite this Declaration. What's more, the U.S. does not like to discuss social, economic, and cultural rights in the human rights

record. Similar to the U.S. State Department, the U.S. Congressional Research Service dismisses positive rights in its Chinese human rights report and focuses its particular attention on negative rights, including freedom of speech and press, freedom of religion, the right to assemble, and the right to petition (Lum & Fischer, 2010; Lum, 2011; Lum, 2013). Do human rights exclude social, economic, and cultural rights and emphasize only civil and political rights? Is the difference between positive and negative rights fixable? China and the U.S. should identify their fixable differences before talking more about unfixable differences.

The current dilemma is whether China and the U.S. can shift from blaming each other to effectively coordinating in practice. Because the *Tao Te Ching* and the Declaration of Independence share similar values theoretically, the two countries can learn from each other. Rather than assess human rights grievances in their own isolated contexts, they can move from these contexts to where human rights issues emerge. Farrell (2013) mentions that “China, which remains a closed society in many ways, has an open mind, whereas the U.S. is an open society with a closed mind” (Wake up America: Asia will soon be 5 times bigger, more powerful, para. 1). Here Farrell’s idea demonstrates that a conservative China attempts to learn from advanced civilizations and a liberal U.S. maintains its ethnocentric values. When both China and the U.S. address their communication dilemma, both sides might coordinate their current misunderstandings by seeking common principles in human rights discourse. Instead of both countries disseminating differences, dialogue may be initiated and facilitated so issues of human rights can be appropriately and effectively discussed.

5.5 Shift Dialogue Concentration

Currently, U.S.-China human rights dialogues are mainly held by the Chinese and U.S. governments. The participants are governmental officials from the Chinese Ministry of Foreign Affairs and the U.S. Department of State (Posner, 2012). Can there be nongovernmental participants and representatives of different social classes? When advocating a constructive approach, both countries need to transcend the organizational dissemination of human rights differences and move from governmental action to holistic action. The general public should be involved as well. Rather than working with authorities laying out the criteria for protecting human rights, it may be better to first involve ordinary citizens. As Saunders (1999) argues, to understand conflict requires shifting focus from state action to how citizens outside government act. Exchanging personal narratives can be a reasonable channel to engage dialogue participants, exchange their mixed feelings, or soften their animosities (Gergen, 2009). When participants express doubts, share concerns, or show appreciation towards particular human rights ideas through their personal experience, it may be easier to generate more acceptance and comprehension from others and more direct audience engagement.

Another potentially effective method for a productive human rights dialogue is to shift concentration from hierarchical participation to topical participation. A comparison from China's two annual conferences illustrates that topical participation is more likely to help participants express their ideas rather than hierarchical participation. Every March, China holds two conferences, the National People's Congress (NPC) Conference and the Chinese People's Political Consultative Conference (CPPCC). The NPC and CPPCC together are designated to make important national-level political decisions in China.

From an online survey conducted by Chinese media, 99% of the population believe that CPPCC representatives are more willing to express constructive ideas than NPC delegates (Chen & Zhang, 2009). One reason for this interesting phenomenon is that the NPC divides delegates into panels according to administrative region, whereas the CPPCC divides participants based on topics like economics, culture, and sport. When delegates from different social classes of the same region get together, the organizational hierarchy of NPC makes it more difficult for them to criticize more influential delegates. However, CPPCC representatives in the same panel come from similar fields. Because of interest in common topics, they are more willing to work together and share their personal ideas. The contrast between NPC and CPPCC participants can function as a model for structuring human rights dialogue between disparate nations as well.

How might it be possible for the two countries to discuss common topics in a human rights dialogue? For example, if both sides recognize human rights violations in the one-child policy, can they work together to develop a one-child policy that reduces human rights violations? This would be a positive attempt to apply topical engagement in the U.S.-China human rights dialogue.

5.6 Limitation

The purpose of human rights dialogue is to resolve the current human rights conflict between China and the U.S.. However, dialogue alone is not a panacea for all their human rights conflicts. A good dialogue should contribute to greater understanding between participants (Baxter & Montgomery, 1996). However, no one can really guarantee its effectiveness. Can we say that human rights dialogue matters between China and the U.S.?

How do we know the Chinese and U.S. governments really care about their own human rights protections? If one side makes progress in human rights practice, will the other be supportive? When one side points out the human rights problems of the other side, can it empathize with the other side's perspective, and offer workable solutions within that perspective?

CHAPTER 6

CONCLUSION

This thesis explores how a constructionist perspective can help facilitate understanding of human rights conflicts between China and the U.S. It argues that the perception of human rights is not to be taken for granted because differences in historical and cultural contexts influence the construction of human rights, including philosophical traditions, dominant media, and government. Based on these factors, a constructionist dialogue can be used to enhance mutual understanding between China and the U.S.

6.1 Summary

In contrast with other studies focusing on Confucianism and Western human rights, Chapter 3 explores the origin and development of human rights in historical contexts and the relationship between natural law, natural rights, and human rights. Natural law refers to the law to which human rights are obliged to conform under the direction of nature. Inspired by the idea of natural law, John Locke introduced the concept of natural rights. His argument is that all men in the state of nature are free,

and independent and people have the rights to do as they wish within the bounds of the law of nature. Locke's concept of natural rights had a positive influence on Thomas Jefferson. When drafting the Declaration of Independence, Jefferson developed Locke's idea and discussed the three primary human rights: the rights to life, liberty, and the pursuit of happiness. Although Locke and Jefferson pointed out the role of duties, their emphasis on rights has influenced the construction of human rights in the U.S. Consequently, civil and political liberties are emphasized for human rights by the U.S. society. Chapter 3 also discusses the origin of Chinese natural law, the ideas of Lao Zi on Taoism. The concept of Tao demonstrates the importance of natural law. Although Lao Zi's ideas provide a basis for the development of Chinese natural law and human rights, the influence of Confucian traditions and language makes it difficult to introduce human rights thinking in a duty-based China. Confucian ethnical principles (e.g., self-sacrifice) and the absence of specific human rights terms influence the construction of Chinese human rights.

Chapter 4 discusses contemporary human rights issues in China and the U.S. This chapter compares how the Chinese and U.S. dominant media influence the construction of human rights conflicts through the lens of the one-child policy. The U.S. media prefers to discuss individual rights and negative rights and have a critical position on China's human rights issues. In contrast, Chinese media like to discuss collective rights and positive rights and to have an optimistic position on China's human rights issues. Additionally, Chinese media tend to integrate social interests into the construction of

positive rights. Based on these discussions, Chapter 4 concludes that China and the U.S. have different perspectives on human rights in their contemporary human rights practice. The chapter also concludes that different social contexts influence the varied constructions of human rights issues.

Chapter 5 demonstrates the necessity of shifting concentration from blaming to coordinating and contrasts dissemination and dialogue. Dialogue makes the standard of communication strenuous and increases the risk of miscommunication because of the uncertainty of interaction. However, if the two nations can promote a cross-cultural dialogue and positively influence public discourse, it may reduce the misunderstanding of human rights differences caused by the one-way dissemination of media articles and governmental documents. Chapter 5 emphasizes the importance of having a constructionist dialogue. Different from a universalist or relativist approach, a constructionist dialogue emphasizes that different sides critically examine their respective traditions to see what they deem appropriate and what behaviors should be discarded. In order to develop human rights dialogue, this paper compares the ideas of the Declaration of Independence and *the Tao Te Ching* and proposes that the wisdom in *the Tao Te Ching* can help foster the U.S.-China human rights dialogue. Furthermore, when it comes to human rights practice, it is necessary to shift concentration from official to unofficial dialogue and from hierarchical to topical participation.

6.2 Limitations and Implications for Future Research

This thesis explores why China and the U.S. have human rights conflicts and how they can reduce or mitigate their human rights conflicts. Because of the complexity of human rights theoretical frameworks and practices, there are several limitations in this research. First, this thesis does not discuss sources other than philosophical discourses, news media articles, and government documents, which, to a certain extent, may reduce the credibility of the conclusions. Philosophy, media, and government play important roles in the construction of human rights issues, but these perspectives may not comprehensively represent different human rights issues. Thus, in future research, scholars can increase the diversity of sources. Second, this thesis relies on newspaper articles to discuss how media construct human rights issues. Do other types of media take different positions and influence construction of human rights issues differently? This thesis does not incorporate examples from different types of media, which may provide a possibility for further research. Furthermore, as Chapter 5 concludes, dialogue could enhance the mutual understanding between China and the U.S., but how is that to be measured? How do people know whether China and the U.S. better understand each other after such dialogue? In the future, scholars could focus on measuring the effects of communication on cross-cultural relations.

6.3 The Future of U.S.-China Human Rights Communication

While different understandings of human rights are seen as sources of tension between the U.S. and China, they can create an opportunity to produce a benefit for both sides and demonstrate the possibility of warming relations between these two countries. During the turbulent periods in the history of the interaction between the U.S. and China, human rights dialogue has emerged in different forms and served as an instrument to improve their bilateral relationship. It is important for the U.S. and China to consider what they can accomplish with their human rights dialogue. In July 2013, the Chinese and U.S. held the 18th human rights dialogue. According to the official release of the U.S. State Department, the Chinese and U.S. delegations included representatives from several different government ministries rather than exclusively from the area of foreign affairs. It may have a positive influence on the human rights policy formation in both countries. Although the U.S. State Department and Chinese Ministry of Foreign Affairs played leading roles in U.S.-China human rights dialogues, the configuration of human rights policy depends largely on the negotiation between different ministries. The participation of different ministries can advance the U.S.-China human rights dialogue and move forward human rights policy in both countries. Furthermore, both countries may consider locating human rights issues in a particular field (e.g., judiciary system and freedom of press) to facilitate their human rights discussions.

As Chapter 5 infers, the U.S.-China human rights dialogue may shift the focus from official to unofficial. In other words, rather than two governments,

nongovernmental organizations can create more beneficial connections for the U.S.-China human rights communication. For example, they can set up exchange programs on human rights and encourage those who are interested in U.S.-China human rights communication to participate in these programs, in order to increase the mutual understanding between the U.S. and China. The more people know about the human rights conflicts globally, the more likely they are to provide effective solutions for these conflicts' reduction.

As the U.S. State Department Acting Secretary Zeya said, "I do not see human rights as an area of disagreement between the American and Chinese people. Like people everywhere, the Chinese people deserve to be treated with dignity, to have accountable government, and to have their voices heard" (*Embassy of the U.S. in China*, 2013). The protection of human rights is a common goal between China and the U.S. regardless of race, gender, social class, and religion. With the construction of cooperative partnership, China and the U.S. could work towards a healthy human rights relationship in the future.

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